UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1999/1250/Add.1
23 December 1999

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS INTERIM ADMINISTRATION MISSION IN KOSOVO

Addendum

The texts of regulations Nos. 1 to 7 issued by my Special Representative as at 16 September 1999 were annexed to my last report (S/1999/987). The 16 regulations issued since that date are attached herewith for the information of the members of the Security Council.

99-39057 (E) 271299

UNITED NATIONS
United Nations Interim
Administration Mission
in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration
Intérimaire des Nations
Unies au Kosovo

UNMIK/REG/1999/8
20 September 1999

REGULATION NO. 1999/8

ON THE ESTABLISHMENT OF THE KOSOVO PROTECTION CORPS

The Special Representative of the Secretary-General,

Acting pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Hereby promulgates the following:

Section 1

Establishment of the Kosovo Protection Corps

1.1 The Kosovo Protection Corps shall be established as a civilian emergency service agency, the tasks of which shall be to:

(a) provide disaster response services;

(b) perform search and rescue;

(c) provide a capacity for humanitarian assistance in isolated areas;

(d) assist in demining; and

(e) contribute to rebuilding infrastructure and communities.

1.2 The Kosovo Protection Corps shall not have any role in law enforcement or the maintenance of law and order.

Section 2

Organization of the Kosovo Protection Corps

2.1 The Kosovo Protection Corps shall consist of active members, up to maximum of three thousand, as well as reserve members, up to a maximum of two thousand, who may be called upon when required.

2.2 Members of the Kosovo Protection Corps shall be individually recruited on the basis of

professional criteria required for the functions to be performed. In keeping with the multi-ethnic character of the Kosovo Protection Corps, at least ten percent of both active and reserve members shall comprise individuals from minority groups.

2.3 The Special Representative of the Secretary-General shall have final authority over the selection and appointment of members of the Kosovo Protection Corps and shall have the authority to dismiss such members on appropriate grounds.

2.4 The Kosovo Protection Corps shall not take part in any political activity, nor shall members of the Kosovo Corps hold public office or actively engage in political affairs.

Section 3

Functioning of the Kosovo Protection Corps

The Kosovo Protection Corps shall operate under the authority of the Special Representative of the Secretary-General. KFOR shall provide day-to-day operational direction to the Kosovo Protection Corps in accordance with policies and priorities established by the Special Representative of the Secretary-General.

Section 4

Entry into force

The present regulation shall enter into force when the Special Representative of the Secretary-General determines that necessary funding is available for the establishment and maintenance of the Kosovo Protection Corps and COMKFOR confirms compliance with the relevant provisions of Security Council resolution 1244 (1999).

B. Kouchner

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/9
24 September 1999

REGULATION NO. 1999/9

ON THE IMPORTATION, TRANSPORT, DISTRIBUTION AND SALE OF PETROLEUM PRODUCTS (PETROLEUM, OIL AND LUBRICANTS) FOR AND IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of regulating the importation, transport, distribution and sale of petroleum products (petroleum, oil, and lubricants or "POL") for and in Kosovo,

Hereby promulgates the following:

Section 1
Licence

Any person or enterprise engaging in the importation, transport, distribution and sale of any or all petroleum products (petroleum, oil, and lubricants or "POL") for and in Kosovo, shall obtain a license from the Special Representative of the Secretary-General. Such a license shall contain, as appropriate, any or all of the conditions set forth in the annex attached hereto.

Section 2
Destination of sale of petroleum products

The destination of sale of the petroleum products specified in section 1 above, shall be limited exclusively to the territory of Kosovo. Any other destination of sale shall be prohibited.

/...

Section 3
Fuel Supervisory Board

The Special Representative of the Secretary-General shall establish a Fuel Supervisory Board under UNMIK's authority which shall supervise compliance with the present regulation and licences issued under it, and ensure a reasonable and fair degree of competition, appropriate pricing policies and adequate inspection standards.

Section 4
Applicability

The provisions of the present regulation shall not apply to the importation, transport, distribution and sale of petroleum products (POL) for the use of UNMIK, KFOR, other United Nations organs, the specialized agencies, NGOs registered with the United Nations and operating in Kosovo and the Red Cross and Red Crescent Societies.

Section 5
Implementation

The Special Representative of the Secretary-General may issue administrative directions in connection with the implementation of the present regulation.

Section 6
Applicable Law

The provisions of the applicable laws relating to the importation, transport, distribution and sale of petroleum products (POL) shall apply subject to the provisions of the present regulation.

Section 7
Entry into Force

The present regulation shall enter into force on 24 September 1999.

Bernard Kouchner
Special Representative of the Secretary-General

ANNEX

CONDITIONS FOR ISSUANCE OF A LICENCE

The grant of a licence shall, as appropriate, be subject to any or all of the conditions stated hereunder:

1. A statement of intent to engage in any or all of the following activities: the importation, transport, distribution, or sale of petroleum products (petroleum, oil and lubricants or "POL") for and in Kosovo;

2. An undertaking by the licensee to administer and render operational, assets of "Jugopetrol" and/or "Beopetrol" in Kosovo, in addition to any privately owned assets in Kosovo of which the licensee may lawfully make use;

3. An undertaking by the licensee to provide and adhere to a comprehensive system for the provision of POL products in Kosovo, ranging from their procurement, importation into Kosovo, transport, distribution and sale to the ultimate consumers;

4. A statement by the licensee containing specifications of delivery capacities, sources of procurement, pricing structure, quantities of POL to be delivered and their delivery schedule and details regarding intended markets;

5. Payment by the licensee of all customs and excise duties and sales tax levied on POL products in accordance with applicable law;

6. UNMIK Regulation No. 1999/9 of 24 September 1999 shall form an integral part of the licence;

7. An undertaking to adhere to the conditions specified in the licence;

8. The Special Representative of the Secretary-General may revoke a licence with immediate effect if the licensee is in breach of any of the foregoing conditions set forth in the licence or for any other reason which, in the opinion of the Special Representative of the Secretary-General, interferes with the successful discharge of the mandate of UNMIK.

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/10
14 October 1999

REGULATION NO. 1999/10

ON THE REPEAL OF DISCRIMINATORY LEGISLATION AFFECTING HOUSING AND RIGHTS IN PROPERTY

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of repealing certain legislation that are discriminatory in nature and that are contrary to international human rights standards,

Hereby promulgates the following:

Section 1
Repeal of Certain Legislation

The following laws, which do not comply with the standards referred to in section 2 of UNMIK regulation No. 1999/1 are repealed in Kosovo.

The Law on Changes and Supplements on the Limitation of Real Estate Transactions (Official Gazette of Republic of Serbia, 22/91 of 18 April 1991);

The Law on the Conditions, Ways and Procedures of Granting Farming Land to Citizens Who Wish to Work and Live in the Territory of the Autonomous Province of Kosovo and Metohija (Official Gazette of Republic of Serbia, 43/91 of 20 July 1991).

/...

Section 2
Entry into force

The present regulation shall enter into force on 13 October 1999

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/11
13 October 1999

REGULATION NO. 1999/11

ON EXERCISING CONTROL OVER PAYMENTS FACILITIES AND SERVICES

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of providing facilities and services for use by UNMIK in connection with the collection, safekeeping and disbursement of public funds,

Hereby promulgates the following:

Section 1
Facilities

All facilities, including all movable and immovable property, located in Kosovo used by the Public Payment Service in Kosovo, with its headquarters at Leninit Street, Pristina, shall be utilized and administered by UNMIK.

Section 2
Governance

2.1 A Supervisory Board for Payment Operations (the "Supervisory Board") consisting of three members of a high level of professional competence and integrity, shall be appointed by and shall be responsible to the Special Representative of the Secretary-General.

2.2 Members of the Supervisory Board shall serve at the discretion of the Special Representative of the Secretary-General.

2.3 The Special Representative of the Secretary-General shall appoint a President of the Supervisory Board from one of its members.

Section 3
Activities

The Public Payment Service in Kosovo shall, under the control and supervision of the Supervisory Board, and subject to the ultimate authority of the Special Representative of the Secretary-General, carry out collection, safekeeping and disbursement of funds to or on behalf of public institutions responsible for public funds, such as compulsory payments as defined in section 4 of UNMIK Regulation 1999/4, public sector salaries, emoluments and pensions.

Section 4
Staff

The Supervisory Board shall appoint persons of a high level of professional competence and integrity, including a general manager, to staff the Public Payment Service in Kosovo. The staff of the Public Payment Service in Kosovo shall be responsible to the Supervisory Board. The Supervisory Board shall apply non-discriminatory personnel policies, which shall ensure that the composition of the staff of the Public Payment Service in Kosovo reflects the multi-ethnic character of communities in Kosovo.

Section 5
Implementation

The Special Representative of the Secretary-General may promulgate administrative directions to implement the present regulation.

Section 6
Applicable Law

The provisions of applicable law shall apply subject to the provisions of the present regulation.

Section 7
Entry into Force

This regulation shall enter into force on 13 October 1999.

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/12
14 October 1999

REGULATION NO. 1999/12

ON THE PROVISION OF POSTAL AND TELECOMMUNICATIONS SERVICES IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of providing postal and telecommunications services in Kosovo,

Hereby promulgates the following:

Section 1
Post and Telecommunications Enterprise

1.1 On an interim basis and for the duration of UNMIK's mandate and subject to other arrangements made or to be made by the Special Representative of the Secretary-General, the Post and Telecommunications Enterprise in the territory of Kosovo (PTK), as a juridical entity, is hereby given the necessary authority for providing postal and telecommunications services. PTK may, with the approval of the Special Representative of the Secretary-General, establish subsidiary juridical entities to provide specific services.

1.2 For the purpose of providing postal and telecommunications services pursuant to the present regulation, PTK shall have authority to use available public postal and telecommunications assets in Kosovo, including any future expansion thereof.

1.3 PTK shall administer and be responsible for all assets, facilities and staff used and employed by it. PTK shall be responsible for all liabilities incurred in connection with its operation.

Section 2
Management and Employment Policies and Practices

2.1 PTK shall apply rational management and employment policies with the sole aim of the good order and administration of PTK to ensure that its responsibilities under the present regulation are met.

2.2 PTK's employment policies shall include a professional assessment of the numbers and types of staff positions needed in each of its offices and of the qualifications required for these positions.

2.3 PTK shall be permitted to engage, on contract, services of personnel previously employed in postal and telecommunications services in Kosovo as well as other personnel. PTK shall apply non-discriminatory personnel policies, which shall ensure that the composition of PTK's personnel reflects the multi-ethnic character of communities in Kosovo.

2.4 PTK shall maintain sound and transparent financial records of all PTK transactions which shall be subject to periodic audit by an auditor appointed by UNMIK.

Section 3
Operations

3.1 In the performance of the responsibilities entrusted to it under the present regulation, PTK shall observe the provisions of all applicable UNMIK regulations and administrative directions.

3.2 The Special Representative of the Secretary-General shall establish a Joint Civil Commission on Postal and Telecommunications Services, under the authority of UNMIK, which shall supervise the activities of PTK and provide policy guidelines to PTK.

3.3 PTK shall not take any action with respect to international postal and telecommunications services without the specific written consent of the Special Representative of the Secretary-General.

Section 4
Implementation

The Special Representative of the Secretary-General may issue administrative directions and orders in relation to the implementation of the present regulation.

Section 5
Applicable Law

The present regulation shall supersede any provision in the applicable laws relating to the provision of postal and telecommunications services in Kosovo which is inconsistent with it.

Section 6
Entry into Force

The present regulation shall enter into force on 14 October 1999.

B. Kouchner

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/13
16 October 1999

REGULATION NO. 1999/13

ON THE LICENSING OF NON-BANK MICRO-FINANCE INSTITUTIONS IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of regulating non-bank micro-finance institutions in Kosovo,

Hereby promulgates the following:

Section 1
Definitions

For the purpose of the present regulation:

"Non-bank micro-finance institution" means a financial institution which is not a bank and which is engaged in the business of micro-finance.

"Bank" means a financial institution which is engaged in the business of receiving money deposits or similar repayable funds from the public, including physical and juridical persons, and extending credits for its own account;

"Micro-finance institution" shall mean an institution which provides credit to physical and juridical persons in an amount not exceeding 2,000 Deutsche Marks in cumulative exposure to one single borrower or related borrowers.

"Credit" means any commitment to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and to payment of interest or other charges on such amount; any extension of the due date of a debt; any guarantee issued; and any commitment, contingent or otherwise, to acquire a debt security or other right to payment of a sum of money.

Section 2
Licensing of Non-Bank Micro-Finance Institutions

2.1 Non-bank micro-finance institutions wishing to operate in Kosovo shall obtain a license from the Special Representative of the Secretary-General.

2.2 The operations of institutions licensed under the present regulation shall be limited to those specified in the operating plan submitted pursuant to the requirements listed in section 3 below.

Section 3
License Applications

Applications by institutions for licenses under the present regulation shall be made in writing to the Special Representative of the Secretary-General and shall contain the following information:

a. name, place of domicile, place and address of business (head office) of the institution;
b. full names and addresses of the founders of the institution;
c. an operating plan specifying the operations that the institution intends to perform and the sources of financing for such operations, including the financing provided by individual founders and by other sources;
d. information concerning the time frames in which financing shall be provided and the operations of the institution shall commence;
e. information concerning the time frame in which the operations of the institution shall cease (five years or less);
f. information concerning the founders' obligations to conform to the policies of the institution;
g. name(s) and manner of representation for persons authorized to perform establishment activities for the institution; and
h. date and place of the submission of the application.

Section 4
Further Provisions

4.1 An institution receiving a license under the present regulation:

a. shall conform with applicable law, including UNMIK regulations and administrative directions concerning banking regulation in Kosovo;
b. shall not provide credits to its founders, directors, officers, employees or related entities;
c. shall not use the word "bank" in its name; and
d. is prohibited from accepting deposits.

4.2 Under no circumstances shall the holdings of the institution in fixed assets or leasehold improvements exceed ten percent of the total financing made available to the institution.

Section 5
Implementation

The Special Representative of the Secretary-General may give administrative directions and orders in connection with the implementation of the present regulation.

Section 6
Applicable Law

The present regulation shall supersede any provision in the applicable law relating to the regulation of non-bank micro-finance institutions which is inconsistent with it.

Section 7
Entry into Force

The present regulation shall enter into force on 16 October 1999.

B. Kouchner

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/14
21 October 1999

REGULATION NO. 1999/14

ON THE APPOINTMENT OF REGIONAL AND MUNICIPAL ADMINISTRATORS

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of the efficient administration of Kosovo,

Hereby promulgates the following:

Section 1
Regional Administrators

1.1 The Special Representative of the Secretary-General shall appoint, and may transfer or replace, a Regional Administrator for each of the five regions of Kosovo (Pristina, Pec, Mitrovica, Prizren, and Gnjilane) to act on his behalf.

1.2 The Regional Administrators shall report to the Deputy Special Representative of the Secretary-General for Civil Administration, who shall ensure the implementation of the present regulation.

Section 2
Authority and Functions of Regional Administrators

2.1 The Regional Administrators shall control, discharge or otherwise supervise the functions entrusted to public services and local government bodies in the respective regions and may require that those services or bodies seek his or her prior approval for specific decisions or initiatives.

2.2 The Regional Administrators may appoint advisory bodies in their respective regions that shall advise the Regional Administrator in the discharge of his or her functions.

2.3 The Regional Administrators shall oversee and coordinate the activities of UNMIK staff in their regions.

Section 3
Municipal Administrators

3.1 The Regional Administrators shall supervise Municipal Administrators for the municipalities in their respective regions.

3.2 The Municipal Administrators shall control, discharge or otherwise supervise the functions entrusted to public services and local government bodies in the respective municipalities and Municipal Administrators may require that those services and bodies seek his or her prior approval for specific decisions or initiatives. In particular, the Municipal Administrators shall:

(a) Reactivate or establish and oversee, as the case may be, administrative structures, institutions and enterprises, falling within the jurisdiction of the municipality, to carry out government activities at a municipal level, including revenue generating activities and systems of financial management and control;

(b) Reactivate or establish and oversee modalities for local participation in the decision making process pending elections; and

(c) Coordinate international assistance at the municipal level.

Section 4
Implementation

The Special Representative of the Secretary-General may issue administrative directions in connection with the implementation of the present Regulation.

Section 5
Applicable Law

The provisions of the applicable laws relating to regional and municipal administration regulation shall apply subject to the provisions of the present regulation.

Section 6
Entry into Force

This Regulation shall enter into force on 21 October 1999.

Bernard Kouchner
Special Representative of the Secretary-General

/...

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/15
21 October 1999

REGULATION NO. 1999/15

ON TEMPORARY REGISTRATION OF PRIVATELY OPERATED VEHICLES IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of providing temporary registration papers and license plates for vehicles located in Kosovo,

Hereby promulgates the following:

Section 1
Scope

1.1 From a date and in accordance with procedures to be announced, the Special Representative of the Secretary-General shall require natural and legal persons in Kosovo to obtain temporary registration of vehicles in their possession and apply for the issue of a temporary Kosovo license plate.

1.2 The issue by UNMIK of temporary vehicle registration papers and temporary license plates shall identify a specific individual or entity to a specific vehicle but shall not constitute evidence of title, nor shall it constitute evidence of the identity of the owner. Title to vehicles shall be determined in accordance with procedures to be established in due course.

1.3 Vehicles of non-residents and of entities not located in Kosovo that possess valid registration papers and license plates are exempt from the present regulation, as are vehicles of the United Nations, KFOR and international intergovernmental organizations authorized by the Special Representative of the Secretary-General.

1.4 For the purposes of the present regulation, the word "vehicle" or "vehicles" shall comprise motor powered forms of transport including cars, minivans, utility vehicles, minibuses, buses, trucks, motorcycles, tractors and trailers.

Section 2
Temporary registration and licensing of vehicles

2.1 Temporary registration papers shall indicate:

(a) Full name, address, and date of birth of the individual, or the full name and address of the entity, seeking registration;
(b) Vehicle model, year, engine and chassis numbers;
(c) License plate number.

2.2 Temporary registration papers shall be kept in the vehicle and temporary Kosovo license plates shall be affixed to both the front and back of the vehicle.

2.3 Procedures for the issue of permanent registration papers and permanent license plates shall be announced in a separate regulation to be promulgated in due course.

Section 3
Utilization of vehicles

After a date to be announced, only vehicles with valid registration and license plates will be permitted to operate in Kosovo.

Section 4
Insurance

In order to obtain registration an Applicant shall provide written proof of third party liability insurance from a company acceptable to UNMIK.

Section 5
Changes

Any change in the possession of a vehicle registered and licensed by UNMIK, including the names and addresses of the person in possession of the vehicle, and any loss or theft of the vehicle, must be notified to UNMIK on a form and in accordance with instructions to be issued by UNMIK.

Section 6
Implementation

The Special Representative of the Secretary-General may issue administrative directions to implement the present regulation.

Section 7
Entry into Force

The present regulation shall enter into force on 21 October 1999.

B. Kouchner

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim
Administration Mission
in Kosovo

NATIONS UNIES
Mission d'Administration
Intérimaire des Nations Unies
au Kosovo

UNMIK

AUTHORIZATION

I, Bernard Kouchner, Special Representative of the Secretary-General, authorize Mr. Jock Covey, Principal Deputy Special Representative of the Secretary-General, to sign Regulation No. 1999/16 on the Central Fiscal Authority and Regulation No. 1999/17 on the Budget.

Bernard Kouchner

1-11-99
Date

/...

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/16
6 November 1999

REGULATION NO. 1999/16

ON THE ESTABLISHMENT OF THE CENTRAL FISCAL AUTHORITY OF KOSOVO AND OTHER RELATED MATTERS

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purposes of establishing the Central Fiscal Authority in Kosovo and other related matters,

Hereby promulgates the following:

Section 1
Central Fiscal Authority

The Central Fiscal Authority, acting under the authority of the Special Representative of the Secretary-General, is responsible for the overall financial management of the Kosovo Budget and the budgets under the responsibility of the municipalities, which together form the Kosovo Consolidated Budget. This budget will be developed, adopted and executed separately from the budget of the United Nations Interim Administration Mission in Kosovo (UNMIK) that is adopted by the General Assembly of the United Nations.

Section 2
Functions

2.1 The Central Fiscal Authority, having consulted the responsible central and municipal spending authorities, shall make recommendations to the Special Representative of the Secretary-General concerning:

a) formulation of an overall fiscal strategy for the Kosovo Consolidated Budget, in the light of macroeconomic conditions and the effect that fiscal policy may have on economic conditions;

b) development of a public revenue and expenditure programme for the Kosovo Consolidated Budget and formulation of plans for the control and execution of spending under that revenue and expenditure programme;

c) formulating policies for the raising and collection of revenues including, but not limited to, direct and indirect taxes, customs and excise taxes, sales taxes, service charges and donor contributions;

d) controlling and executing the raising of revenues and spending under the Kosovo Consolidated Budget;

e) the establishment of appropriate internal audit arrangements for the Kosovo Consolidated Budget; and,

f) managing the bank accounts of the Kosovo Consolidated Fund.

2.2 The Central Fiscal Authority shall:

a) develop the Kosovo Consolidated Budget and present this budget to the Special Representative of the Secretary-General for approval and adoption by regulation;

b) ensure that the budgets of the Municipalities are developed, approved and executed by Municipal Administrators in a manner consistent with assessed macroeconomic conditions and with the Kosovo Consolidated Budget;

c) record and report to the Special Representative of the Secretary-General on expenditures and revenues of the Kosovo Consolidated Budget;

d) arrange for the establishment of an information technology environment to support th functions; and,

e) perform any other functions necessary for the above mentioned activities.

Section 3
Head of the Central Fiscal Authority

3.1 The Special Representative of the Secretary-General shall appoint the Head of the Central Fiscal Authority who, as chief executive officer under the day to day supervision of the Deputy Special Representative of the Secretary-General for Economic Reconstruction, Recovery and Development, shall be responsible for managing the Central Fiscal Authority and ensuring that the functions entrusted to it are implemented.

3.2 The Head of the Central Fiscal Authority shall staff, organize and administer the Central Fiscal Authority and shall issue administrative instructions and operating guidelines relating to administration of the Kosovo Consolidated Budget and on any matters pertaining to the functions of the Central Fiscal Authority.

Section 4
Kosovo Consolidated Budget Accounts

4.1 Except as otherwise determined the Special Representative of the Secretary-General. the fiscal year is a year of 12 months, starting on first January and ending on thirty-first December of each calendar year.

4.2 The Head of the Central Fiscal Authority shall open and maintain one or more bank accounts for the receipt, custody, payment or transmission of moneys raised or received relating to the Kosovo Consolidated Budget.

4.3 Moneys raised or received shall constitute the Kosovo Consolidated Fund, irrespective of whether such monies are initially received into Cash Payment Offices of the Public Payment Service of Kosovo or into bank accounts. With regard to moneys received from the UN Trust Fund for the UN Interim Administration in Kosovo, allocation and reporting arrangements with regard to the transfer shall be entered into by the Controller of the United Nations and the Special Representative of the Secretary-General.

4.4 No expenditure shall be made from the Kosovo Consolidated Fund except by means of appropriations contained in a regulation promulgated by the Special Representative of the Secretary-General.

Section 5
Independent Audit

The Special Representative of the Secretary-General shall ensure that appropriate independent audit arrangements are established for the Kosovo Consolidated Budget. The auditors shall report to the Secretary-General.

Section 6
Personnel and Employment Policy

The Head of the Central Fiscal Authority shall implement non-discriminatory personnel policies designed to ensure that the composition of the staff of the CFA reflects the multi-ethnic character of communities of Kosovo.

Section 7
Applicable Law

The present regulation shall supersede any provision in the applicable laws which are inconsistent with it.

Section 8
Implementation

The Special Representative of the Secretary-General may issue administrative directions in connection with the implementation of the present regulation

Section 9
Entry into Force

The present regulation shall enter into force on 6 November 1999.

Bernard Kouchner
Special Representative of the Secretary-General

/...

UNITED NATIONS
United Nations Interim
Administration Mission in
Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration
Intérimaire des Nations Unies au
Kosovo

UNMIK/REG/1999/17
6 November 1999

REGULATION NO. 1999/17

ON THE APPROVAL OF THE KOSOVO CONSOLIDATED BUDGET AND AUTHORIZING EXPENDITURES FOR THE PERIOD 1 SEPTEMBER TO 31 DECEMBER 1999

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purposes of approving the Kosovo Consolidated Budget and other related matters,

Hereby promulgates the following:

Section 1.
Expenditures Authorized

Current Expenditures are authorized for the period 1 September to 31 December 1999 from the Kosovo Consolidated Budget for the purposes indicated and the amounts shown in Schedule 1 attached to the present Regulation.

Section 2.
Municipal Expenditures Authorized

Current Expenditures are authorized for the period 1 September to 31 December 1999 from the Kosovo Municipal Budgets for the purposes indicated and the amounts shown in Schedule 2 attached to the present regulation.

Section 3.
Limits on Expenditures

Pursuant to Section 4.4 of UNMIK/REG/1999/16 no expenditures from, or commitments of, the Kosovo Consolidated Fund may be made except as authorized in the present regulation. Notwithstanding this restriction, unanticipated donor grants deposited to the Kosovo Consolidated Fund for specified purposes may be allocated and spent for these

purposes. If the specified purpose is not already contained in the schedules to the present Regulation, an amount equivalent to the deposited donor grant is deemed to be appropriated and a budget line created to permit expenditure to take place.

Section 4.
Adjustment to Amounts Authorized

The Head of the Central Fiscal Authority may transfer authorized amounts between appropriations for Salaries and Wages and appropriations for Other Goods and Services for any individual budget line in Schedule 1 to this Regulation, provided that the reallocation does not exceed, in total, 25% of the category being reduced. Transfers in excess of this limit, including transfers between budget lines in Schedule 1, may be made upon written approval of the Special Representative of the Secretary-General, taking into account the views of the Head of the Central Fiscal Authority.

Section 5.
Adjustment to Provisional Municipal Budget Amounts

Upon request of the Deputy Special Representative of the Secretary-General for Civil Administration, the Head of the Central Fiscal Authority shall transfer amounts allocated to one municipality to another, provided that the total appropriation for the Kosovo Municipal Budgets does not change.

Section 6.
Expenditures Limited to Revenues

The Head of the Central Fiscal Authority, in releasing funds for current expenditure, shall only release funds to the extent revenue or other financing sources are available in the Kosovo Consolidated Fund to make the expenditure.

Section 7.
Contingent Expenditure

The amounts authorized for contingent expenditures may be used only for urgent and unforeseen requirements. The Head of the Central Fiscal Authority may authorize, on receipt of proper justification, the expenditure of up to 100,000 DM for each urgent and unforeseen requirement. Proposals for amounts to be spent in excess of 100,000 DM will be forwarded, together with the recommendation of the Head of the Central Fiscal Authority, to the Special Representative of the Secretary-General for decision.

Section 8.
Effectiveness

The present regulation shall enter into force on 6 November 1999.

Bernard Kouchner
Special Representative of the Secretary-General

SCHEDULE 1
KOSOVO CONSOLIDATED BUDGET
FY 1999

	Employ-ees	Expenditure on Goods and services		Subsidies and Transfers	Total
		Wages and Salaries	Other Goods and Services		
CURRENT EXPENDITURE					
1. GENERAL PUBLIC SERVICES	**868**	**593,002**	**548,617**	**0**	**1,141,619**
Central Fiscal Authority	107	70,400	21,120	0	91,520
Banking and Payment Authority	409	225,600	67,680	0	293,280
Tax Administration	126	116,001	34,800	0	150,801
Customs Administration	56	79,001	381,016	0	460,017
Statistics	170	102,000	44,000	0	146,000
2. CIVIL EMERGENCY SERVICES	**3,052**	**1,317,600**	**3,153,150**	**0**	**4,470,750**
Kosovo Protection Corps	3,052	1,317,600	3,153,150	0	4,470,750
3. PUBLIC ORDER AND SAFETY AFFAIRS	**5,727**	**4,749,803**	**1,447,301**	**0**	**6,197,104**
Fire Service	572	423,001	126,900	0	549,901
Police	4,000	3,525,001	1,057,500	0	4,582,501
Prison Service	600	367,001	110,100	0	477,101
Judiciary	555	434,800	152,800	0	587,600
4. EDUCATION	**31,603**	**23,990,400**	**18,911,000**	**0**	**42,901,400**
Pre-Primary	746	571,200	280,000	0	851,200
Primary	21,132	15,797,600	6,000,000	0	21,797,600
Secondary	6,017	4,635,600	4,000,000	0	8,635,600
Boarding Facilities/Dormitories	110	62,000	4,000,000	0	4,062,000
Special Needs Education	360	252,000	360,000	0	612,000
University	2,600	2,144,000	4,000,000	0	6,144,000
National University Library	81	61,200	20,000	0	81,200
Educational Administration	557	466,800	251,000	0	717,800
5. HEALTH AFFAIRS	**11,000**	**8,760,000**	**16,200,000**	**0**	**24,960,000**
Hospitals	6,284	4,817,200	8,000,000	0	12,817,200
Primary	4,329	3,624,400	6,700,000	0	10,324,400
Other	387	318,400	1,500,000	0	1,818,400
6. SOCIAL SECURITY AND WELFARE AFFAIRS	**1,630**	**1,488,001**	**446,400**	**20,000,000**	**21,934,401**
Social Security Administration	1,630	1,488,001	446,400	20,000,000	21,934,401

SCHEDULE 1
KOSOVO CONSOLIDATED BUDGET
FY 1999

	Employ-ees	Expenditure on Goods and services		Subsidies and Transfers	Total
		Wages and Salaries	Other Goods and Services		
7. HOUSING AND COMMUNITY AMENITY	**935**	**766,201**	**229,860**	**0**	**996,061**
Water Supply	583	357,200	107,160	0	464,360
Public Heating	0	245,001	73,500	0	318,501
Garbage Collection	352	164,000	49,200	0	213,200
8. RECREATION AND CULTURE	**735**	**646,000**	**232,000**	**0**	**878,000**
Museums	0	108,000	32,000	0	140,000
Cultural Institutes	183	131,600	80,000	0	211,600
Arts	217	152,400	36,000	0	188,400
Libraries/Archives	335	254,000	84,000	0	338,000
9. FUEL AND ENERGY	**6,150**	**0**	**0**	**4,732,000**	**4,732,000**
Electricity	6,150	0	0	4,732,000	4,732,000
10. NATURAL RESOURCES	**50**	**39,600**	**166,000**	**0**	**205,600**
Agriculture	50	39,600	166,000	0	205,600
11. MINING, MINERAL RESOURCES, MANUFACTURING AND CONSTRUCTION					
12. TRANSPORT AND COMMUNICATION	**8,100**	**4,588,400**	**2,426,120**	**0**	**7,014,520**
Roads	556	332,400	99,720	0	432,120
Bridges	0	0	0	0	0
Railways	1,250	644,000	193,200	0	837,200
Bus	4,474	2,520,400	756,120	0	3,276,520
Aviation	0	0	300,000	0	300,000
Telecom	699	419,600	925,880	0	1,345,480
Postal	1121	672,000	151,200	0	823,200
13. OTHER ECONOMIC SERVICES					
14. OTHER EXPENDITURES					
MUNICIPALITIES PER SCHEDULE 2	**6,631**	**4,075,600**	**2,037,800**		**6,113,400**
CONTINGENT EXPENDITURE			**3,250,000**		**3,250,000**
Total Current Expenditures	**76,481**	**51,014,607**	**49,048,248**	**24,732,000**	**124,794,855**

SCHEDULE 2
KOSOVO MUNICIPAL BUDGETS
FY 1999

	Employees	Expenditure on Goods and Services		Total
		Salaries and Waages	Other Goods and Services	
Pristina Region	**2,701**	**1,619,600**	**809,800**	**2,429,400**
Glogovac	495	296,800	148,400	445,200
Kosovo Polje	315	188,800	94,400	283,200
Lipljan	711	426,400	213,200	639,600
Obilic	168	100,800	50,400	151,200
Podujevo	441	264,400	132,200	396,600
Pristina	511	306,400	153,200	459,600
Stimlje	60	36,000	18,000	54,000
Prizren Region	**1,178**	**703,200**	**351,600**	**1,054,800**
Dragash	329	197,600	98,800	296,400
Prizren	337	202,400	101,200	303,600
Rahovec	279	163,600	81,800	245,400
Suhareke	233	139,600	69,800	209,400
Peje Region	**712**	**514,800**	**257,400**	**772,200**
Decani	94	68,000	34,000	102,000
Gjakova	182	120,800	60,400	181,200
Istog	126	100,400	50,200	150,600
Klina	83	62,800	31,400	94,200
Peje	227	162,800	81,400	244,200
Mitrovica Region	**1,237**	**756,800**	**378,400**	**1,135,200**
Leposavic	99	65,200	32,600	97,800
Mitrovica	573	282,000	141,000	423,000
Sribica/Skandraj	246	179,600	89,800	269,400
Vushtrri	182	137,200	68,600	205,800
Zubin Potok	77	41,200	20,600	61,800
Zvecan	60	51,600	25,800	77,400
Gnjilane Region	**803**	**481,200**	**240,600**	**721,800**
Gnjilane	252	151,200	75,600	226,800
Kacanik	61	36,400	18,200	54,600
Kamenica	77	46,000	23,000	69,000
Novo Brdo	47	28,000	14,000	42,000
Strpce	61	36,400	18,200	54,600
Urosevac	235	141,200	70,600	211,800
Vitina	70	42,000	21,000	63,000
Total Municipalities	**6,631**	**4,075,600**	**2,037,800**	**6,113,400**

UNITED NATIONS
United Nations Interim
Administration Mission
in Kosovo

NATIONS UNIES
Mission d'Administration
Intérimaire des Nations
Unies au Kosovo

UNMIK

UNMIK/REG/1999/18
10 November 1999

REGULATION NO. 1999/18

ON THE APPOINTMENT AND REMOVAL FROM OFFICE OF LAY-JUDGES

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of establishing an independent and multi-ethnic judiciary in Kosovo,

Hereby promulgates the following:

Section 1
Additional Powers of the Advisory Judicial Commission

In addition to the powers vested in it by UNMIK Regulation No. 1999/7 of 7 September 1999, the Advisory Judicial Commission (hereinafter called "the Commission") shall advise the Special Representative of the Secretary-General on matters related to the appointment of lay judges as required, as well as on complaints, if any, against any lay judge.

Section 2
Applications for Positions as Lay Judges

2.1 The Commission shall invite, by public announcement, applications of qualified candidates in Kosovo for service as lay judges. It may also accept recommendations from regional, municipal or judicial authorities and other bodies within the legal profession, of persons considered suitable to be interviewed for service as lay judges.

2.2 The Commission shall review the individual applications and make its recommendations in writing to the Special Representative of the Secretary-General on candidates indicating the reasons therefor.

2.3 In reviewing individual applications, the Commission members shall be guided by UNMIK's goal to establish a professional, independent, impartial and multi-ethnic judiciary.

Section 3
Criteria for Selection of Candidates for Service as Lay Judges

Applicants for service as lay judges shall satisfy the following criteria:

(a) they shall be at least eighteen (18) years of age at the date of submission of their application;

(b) they shall be of high moral integrity;

(c) they shall not have a criminal record;

(d) they shall not have participated in discriminatory measures, or applied any repressive laws or have implemented dictatorial policies;

(e) they shall not be registered with any political party or otherwise engage in political activity;

(f) lay judges who will be involved in adjudicating actions involving juveniles shall have professional qualifications and/or experience involving juveniles.

Section 4
Appointment and Removal of Lay Judges

4.1 The Special Representative of the Secretary-General shall appoint lay judges taking into account the recommendations of the Commission under section 2.2 above.

4.2 A lay judge shall not engage in any activity incompatible with his or her functions.

4.3 A complaint regarding a lay judge shall be referred to the Special Representative of the Secretary-General, who shall consult the Commission. After investigating the complaint, the Commission shall make an appropriate recommendation to the Special Representative of the Secretary-General, bearing in mind that no lay judge may be removed from office except on the ground of:

(a) physical or mental incapacity which is likely to be permanent or prolonged;

(b) serious misconduct;

(c) failure in the due execution of office; or

(d) having been placed, by personal conduct or otherwise, in a position incompatible with the due execution of office.

4.4 The Special Representative of the Secretary-General may remove a lay judge from

office after taking into account the recommendation of the Commission under section 4.3 above.

Section 5
Emoluments

The emoluments to be paid to lay judges shall be determined by the Special Representative of the Secretary-General.

Section 6
Applicable law

This regulation shall supersede any provision in the applicable laws relating to the appointment and removal from office of lay judges which is inconsistent with it.

Section 7
Entry into force

The present regulation shall enter into force on 10 November 1999.

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/19
12 November 1999

REGULATION NO. 1999/19

ON THE PROHIBITION OF CASINO-TYPE GAMBLING IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of prohibiting casino-type gambling in Kosovo,

Hereby promulgates the following

Section 1
Definitions

For the purpose of the present regulation:

"Casino-type gambling" means a game or activity involving chance, traditionally conducted at a casino, in which money or other items of value are transferred based on the outcome of the game or activity. Casino-type gambling includes, but is not limited to, roulette, craps, poker, slot machines, blackjack, keno and electronic, mechanical, or video machines offering such games.

"Casino" means any natural or legal person that undertakes or otherwise facilitates casino-type gambling.

"Gambling device" means a device used or adapted or designed to be used for gambling and includes, but is not limited to, roulette wheels, keno layouts and slot machines.

Section 2
Prohibition

Casino-type gambling as well as the establishment and operation of casinos is prohibited in Kosovo.

Section 3
Closure and Seizure

3.1 The relevant law enforcement authorities shall be authorized to terminate all casino-type gambling, to close the casinos and to seize gambling devices as well as other assets and moveable property involved in the game or activity.

3.2 The public prosecutor shall seek an order from the appropriate District Court for the forfeiture of assets seized.

Section 4
Implementation

The Special Representative of the Secretary-General may give administrative directions and orders in connection with the implementation of the present regulation.

Section 5
Applicable Law

The present regulation shall supersede any provision in the applicable law relating to casino-type gambling which is inconsistent with it.

Section 6
Entry into Force

The present regulation shall enter into force on 16 November 1999.

Bernard Kouchner
Special Representative of the Secretary-General

/...

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/20
15 November 1999

REGULATION NO. 1999/20

ON THE BANKING AND PAYMENTS AUTHORITY OF KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of strengthening the economy in Kosovo by providing for efficient payments and sound banking systems by establishing the Banking and Payments Authority of Kosovo,

Hereby promulgates the following

GENERAL PROVISIONS

Section 1
Status of the Banking and Payments Authority of Kosovo

The Banking and Payments Authority of Kosovo (hereinafter referred to as "BPK") is a distinct public legal entity.

Section 2
Definitions

Wherever used in the present regulation, the following terms shall have the following meanings:

"bank" means a juridical person engaged in the business of accepting deposits in Kosovo and using such funds either in whole

/...

or in part to make extensions of credit or investments for the account and at the risk of the person carrying on the business,

"credit" means any direct or indirect commitment to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and to payment of interest or other charges on such amount, any extension of the due date of a debt, any debt payment guarantee issued, and any commitment to acquire a right to payment of a sum of money, the term "credit" shall not include bank deposits and the purchase of debt securities in the secondary market;

"debt security" means any negotiable instrument of indebtedness and any other instrument equivalent to such instrument of indebtedness, whether in certified or in book-entry form,

"financial institution" means a bank or other juridical person that is engaged in the business of making extensions of credit or investments for the account of and at the risk of the person carrying on the business;

"guidelines" means non-obligatory recommendations or policy statements issued by BPK for the information of banks and other parties concerned with BPK operations;

"International accounting standards" means the most recent international accounting standards issued by the International Accounting Standards Committee;

"order" means an obligatory directive issued by BPK in implementation of the present regulation,

"Reasonable fees" means fees that defray the direct and indirect costs that BPK incurs in providing the service or services for which the fee is charged, and

"rule" means an obligatory directive issued by the BPK in implementation of the present regulation to all banks and financial institutions.

Section 3
Capacity of the BPK

3 1 The BPK shall have the capacity to:

(a) Enter into contracts; and

(b) For the purpose of its business, acquire, hold and dispose of property, whether movable or immovable

3 2 The BPK may utilize and administer on behalf of the United Nations Interim Administration Mission in Kosovo ("UNMIK") property of the National Bank of Kosovo, headquartered at Marshall Tito street in Pristina (now known as Mother Teresa street), and of the Public Payments Service of Kosovo, headquartered at Lenin street in Pristina.

Section 4
General Powers

4 1 The BPK shall exercise all powers specifically granted by the present regulation and other applicable laws and such incidental powers as shall be reasonably necessary to carry out the powers so granted.

4 2 BPK shall enjoy operational and administrative autonomy, except as provided in the present regulation. No person shall seek improperly to influence any BPK Governing Board member or employee in the discharge of his or her duties or to interfere in the activities of the BPK.

Section 5
Principal Objectives

The principal objectives of the BPK are to:

(a) Foster an efficient and safe system for domestic payments; and

(b) Foster the liquidity, solvency, and efficient functioning of a stable market-based banking system.

Section 6
Specific Powers

The BPK shall have the following specific powers:

(a) To recommend broad policy guidelines to the Special Representative of the Secretary-General in areas under its responsibility, under the guidance of the Deputy Special Representative for Economic Reconstruction and Development;

(b) To formulate and implement measures for, and supervise and regulate, payments and settlement systems for transactions in domestic and foreign currency in Kosovo;

(c) To own and operate one or more payments systems;

(d) To act as banker to the Central Fiscal Authority and to provide financial advice at its request.

(e) To act as fiscal agent of the Central Fiscal Authority,

(f) To hold foreign currency deposits of banks, the Central Fiscal Authority, and other entities,

(g) To ensure an adequate supply of bank notes and coins for the settlement of cash transactions;

(h) To maintain a depository for safe keeping of currency and securities,

(i) To license, supervise, and regulate banks,

(j) To supervise and regulate dealers in foreign exchange, and

(k) To conduct regular economic and monetary analysis of the Kosovo economy, make public the results, and submit proposals and measures to the UN Interim Administration in Kosovo on the basis of such analysis

Section 7
Cooperation with the Interim Civil Administration

7.1 The BPK shall cooperate with UNMIK, the UN Interim Administration in Kosovo and its entities in pursuing its objectives.

7.2 The BPK shall provide general information as requested from time to time by the Central Fiscal Authority and other entities of the UN Interim Administration in Kosovo with respect to payments, banking and financial matters and they shall provide information to the BPK from time to time as the BPK may request concerning macroeconomic and financial matters.

Section 8
Technical Cooperation

8.1 The BPK may participate in meetings of international councils and organizations concerning technical aspects of payments systems, bank supervision and the other matters that are within its fields of competence.

8.2 The BPK may provide banking and payments services for the benefit of foreign governments, foreign banks and foreign monetary authorities and for public international organizations and other international institutions

Section 9
Public Information

The BPK shall inform the public and the Central Fiscal Authority on a regular and timely basis of its analysis of macroeconomic and financial market developments and on related statistical information

Section 10
Offices of the BPK

The head office of the BPK shall be in Pristina. The BPK may establish branches, liaison offices, and operations facilities at places or in countries where it deems necessary

Section 11
Accounts

11.1 The BPK may open accounts on its books only on behalf of the Central Fiscal Authority and other entities of the UN Interim Administration in Kosovo, banks lawfully operating in Kosovo, foreign banks, public international financial institutions, and donor organizations. The BPK may not open accounts for natural persons or enterprises

11.2 All depository account liabilities of the BPK shall have corresponding assets as provided in section 48 below.

FINANCIAL PROVISIONS

Section 12
Capital

12.1 The authorized capital of the BPK shall be Deutsche Marks 5 million. Thereafter, the capital and the General Reserve accounts shall be equivalent to five percent of the aggregate amount of the credit balances of all accounts maintained on the books of the BPK by account holders shown on the balance sheet of the BPK for the end of each financial year. The capital may be increased by such amounts as may be determined by the BPK and approved by the Special Representative of the Secretary-General. The BPK capital shall not be subject to encumbrance

12.2 No reduction of capital shall be effected except by promulgation of a regulation by the Special Representative of the Secretary-General.

12.3 Whenever:

(a) On a monthly pro forma balance sheet of the BPK the value of its assets falls below the sum of its liabilities and its unimpaired authorized capital; or

(b) The net profit of the BPK for any financial year is insufficient to increase the capital and General Reserve accounts of the BPK to a level equivalent to five percent of the aggregate amount of the credit balances of all accounts maintained on the books of the BPK by account holders shown on the balance sheet of the BPK for the end of that financial year,

the Central Fiscal Authority shall, within one month after publication of that balance sheet, use its best efforts within the available resources to make a capital contribution to the BPK in such amount or amounts as shall be necessary to remedy this deficit.

Section 13
Determination and Allocation of Income

13.1 For each financial year, the net profit or the net loss of the BPK shall be calculated in accordance with international accounting standards

13.2 Net income shall be allocated in each year to a General Reserve account until the capital and General Reserve accounts are equal to five percent of the aggregate amount of the credit balances of all accounts maintained on the books of the BPK by account holders shown on the balance sheet of the BPK for the end of each financial year.

13.3 Any balance of net income shall be transferred to the Central Fiscal Authority as revenue for the budget.

13.4 If there is a net loss, it shall be charged to the General Reserve account or to capital, in that order

Section 14
Annual Budget

All proposed material expenditures of the BPK shall be reported in an annual budget to be approved by the Governing Board and submitted for information to the Central Fiscal Authority

ORGANIZATION AND ADMINISTRATION

Section 15
Organization of the BPK

The BPK shall have a Governing Board, a management and a staff

Section 16
The Governing Board

16 1 The Governing Board shall formulate policies for the operations of the BPK and supervise their implementation.

16 2 The staff of the BPK shall report, not less than ten times each year, to the Governing Board on the conduct of its operations and policies, on the soundness of the financial system, and on the state of the money, capital and foreign exchange markets, including all events and conditions that have or are expected to have a significant effect on the administration or operations of the BPK or on the conduct of its policies or on the financial system or on the before-mentioned markets

Section 17
Powers of the Governing Board

The Governing Board shall have the following powers

(a) To determine the policies for the execution of the powers of the BPK described in section 6 and to supervise their implementation by the management and staff;

(b) To adopt all rules, orders and guidelines issued by the BPK.

(c) To approve all reports and recommendations that the BPK makes to the UN Interim Administration in Kosovo;

(d) To make recommendations to the Special Representative of the Secretary-General on the BPK's participation in technical consultations with international organizations

(e) To adopt the by-laws of the BPK,

(f) To determine the organization of the BPK,

(g) To approve the appointment of the Inspector General of the BPK;

(h) To establish and close branch offices and agencies of the BPK.

(i) To determine the budget of the BPK and the terms and conditions of employment of BPK employees, agents and correspondents;

(j) To determine the accounting policies of the BPK and to approve the periodic reports and financial statements of the BPK;

(k) To decide on the incurring of debt in material amounts by the BPK and the terms and conditions of such debt,

(l) To determine the categories of assets that shall be suitable for investment of the BPK's financial resources, and

(m) To approve or deny applications for bank licenses and to revoke bank licenses.

Section 18
Constitution of the Governing Board

18.1 The Governing Board shall be composed of seven persons appointed by the Special Representative of the Secretary-General: the Chairperson, the Managing Director, the Deputy Managing Director for Bank Supervision and Regulation, the Deputy General Manager for Payments, and three other persons (two of whom shall be appointed from UNMIK).

18.2 Governing Board members must be persons of recognized integrity and professional experience in financial and banking matters.

18.3 The term of each member of the Governing Board shall be six years. Members of the Governing Board shall be eligible for reappointment.

Section 19
Compensation of Members of the Governing Board

The members of the Governing Board shall receive compensation from the BPK similar to that received by persons holding executive or non-executive positions with supervisory or managing boards, as the case may be, in large commercial banks in the region.

Section 20
Ineligibility to Serve on the Governing Board

No person shall serve on the Governing Board while he or she is an official or employee of a bank operating through offices in Kosovo or is a beneficial owner of five percent or more of an equity interest in a bank.

Section 21
Disqualification and Removal of Members of the Governing Board

21.1 Any member of the Governing Board shall be removed from the Board by the Board, or by the Special Representative of the Secretary-General if the Board fails to act, if he or she:

(a) Becomes ineligible to serve on the Governing Board pursuant to section 20

(b) Has been convicted of an offense which carries a sentence of imprisonment without the option of a fine,

(c) Has been a debtor in a bankruptcy or insolvency proceeding,

(d) Has, on grounds of personal misconduct, been disqualified or suspended by a competent authority from practicing a profession, or

(e) Has been found by a majority of the members of the Governing Board to have engaged in illegal activity or serious misconduct in office

21.2 In addition to the provisions of section 21.1, any member of the Governing Board may be removed from the Board by the Board or by the Special Representative of the Secretary-General if the Board fails to act, upon a finding and recommendation by a majority of the members of the Governing Board that the member:

(a) Is unable to perform the functions of such office because of an infirmity of body or mind that has lasted for more than two months, or

(b) Has been absent from three consecutive meetings of the Governing Board without, in the opinion of the Governing Board justifiable reason

Section 22
Resignation

Members of the Governing Board may resign by giving not less than one month notice in writing to the Special Representative of the Secretary General

Section 23
Vacancy on the Governing Board

Any vacancy on the Governing Board shall be filled by the appointment of a new member of the Governing Board in accordance with section 18.

Section 24
Meetings of the Governing Board

24.1 The meetings of the Governing Board shall be chaired by the Chairperson of the Governing Board or, in his or her absence, by another member of the Governing Board

24.2 The Governing Board shall meet as often as the business of the BPK may require but not less frequently than once each calendar month.

24.3 Meetings of the Governing Board are convened by the Managing Director they may also be convened at the written request of any two members of the Governing Board.

24.4 Governing Board meetings shall be convened by communicating the time venue and agenda of the meeting to all members of the Governing Board at least five working days before the date set for the meeting; in the event of an emergency, meetings may be so convened at shorter notice.

24.5 Each member of the Governing Board shall have one vote. In the event of a tied vote, the Chairperson shall cast a tie-breaking vote.

24.6 A quorum for the conduct of business at any meeting of the Governing Board shall consist of five members of the Governing Board.

24.7 Except as otherwise provided by the present regulation, decisions of the Governing Board shall be adopted by a simple majority of those present and voting, however, the by-laws of the BPK may permit meetings and voting by teleconferencing or, in exceptional circumstances, by tested telex or other tested electronic means of communication.

24.8 Subject to the quorum requirement of section 24.6, no act or proceeding of the Governing Board shall be invalidated merely by reason of the existence of a vacancy or vacancies on the Governing Board.

24.9 All acts done by a person acting in good faith as member of the Governing Board shall be valid notwithstanding that some defect in that person's appointment, eligibility or qualification is afterwards discovered.

Section 25
Proceedings of Governing Board Meetings

25.1 The proceedings of the meetings of the Governing Board shall be confidential. The Governing Board may decide to make the outcome of its deliberations on any matter public and shall publish promptly its decisions on general policy matters.

25.2 Minutes of each Governing Board meeting shall be signed by the Chairperson or the presiding officer and by the Secretary of the Governing Board.

25.3 The Secretary of the Governing Board shall be appointed by the Managing Director from among the senior staff of the BPK to attend all Board meetings and keep all BPK records and execute such other functions as described in the BPK by-laws. The Secretary shall not be a member of the Governing Board.

Section 26
Disclosure by Members of the Governing Board, Fiduciary Duties

26.1 Members of the Governing Board shall periodically disclose to the Governing Board in full their significant financial interests which they or members of their household may directly or indirectly possess, such disclosures shall comply with guidelines adopted by the Governing Board

26.2 Whenever any matter related to such interest is before the Governing Board, the member concerned shall disclose his interest at the beginning of the discussion and shall not participate in the discussion and decision on such matter, however, his or her presence shall be counted for the purpose of constituting a quorum.

26.3 Governing Board members and employees of the BPK have a fiduciary duty to the BPK and to the BPK's customers to place the BPK's interests and its customers' interests before their own pecuniary interest.

Section 27
Composition of the Management of the BPK

The management of the BPK shall consist of the Managing Director, the Deputy Managing Director for Bank Supervision and Regulation and the Deputy Managing Director for Payments Systems.

Section 28
Subsequent Service

Former members of the Governing Board shall not serve in a professional capacity in a bank in Kosovo during a period of one year immediately following their departure from the BPK

Section 29
Management of the BPK

29.1 The Managing Director shall serve as the chief executive officer of the BPK in charge of the day-to-day business of the BPK. If the Managing Director is absent or otherwise unable to act, the Deputy Managing Director of Bank Supervision and Regulation or, in his absence the Deputy Managing Director for Payments Systems shall act as chief executive officer of the BPK

29.2 The Managing Director shall be responsible to the Governing Board for the execution of its decisions and for the direction and control of the administration and operations of the BPK.

29.3 All powers that are not specifically reserved for the Governing Board shall be vested in the Managing Director. Within the limitations of his powers, the

Managing Director shall have the authority to take all actions required or deemed advisable for the administration or operations of the BPK, including without limitation entering into contractual commitments on behalf of the BPK, appointing the employees, agents and correspondents of the BPK, and generally representing the BPK. The Managing Director may, with the approval of the Governing Board, delegate some of his or her powers to other employees of the BPK

29.4 The Deputy Managing Director for Bank Supervision and Regulation shall be responsible to the Managing Director. Notwithstanding section 17, the Deputy Managing Director for Bank Supervision and Regulation shall have the authority to take enforcement measures, including ordering any bank to take remedial actions, appointing a receiver for a bank, or imposing penalties provided in this Regulation or other applicable laws or regulations on bank licensing and supervision and regulation.

29 5 The Deputy Managing Director for Payments Systems shall be responsible to the Managing Director

Section 30
Inspector General of the BPK

30 1 An Inspector General of the BPK shall be appointed by the Managing Director with the approval of the Governing Board. The Inspector General shall be a person who has qualifications which make him or her eligible to serve on the Board.

30.2 The Inspector General may resign from office on giving not less than two months notice to the Managing Director. The Inspector General shall be removed from office only by a decision of the Special Representative of the Secretary-General or the Governing Board that is supported by one or more of the grounds of removal specified in section 21.

30.3 The duties of the Inspector General shall include:

(a) Evaluating the quality of existing and proposed management and financial control systems;

(b) Testing the operation of those systems and the reliability and integrity of information and transactions generated;

(c) Testing the adequacy of controls for safeguarding the assets of the BPK and, when appropriate, verifying the existence of assets;

(d) Testing compliance with laws, regulations, administrative directions rules, orders and policies governing the BPK's operations;

(e) Conducting reviews of the effective and efficient use of the BPK's resources and making appropriate recommendations to management;and

(f) Performing special reviews when requested by management and liasing with the auditors of BPK

Section 31
Staff of the BPK

31.1 Staff of the BPK shall not be employed by any person other than the BPK unless the Governing Board shall otherwise decide.

31.2 The Governing Board shall adopt the terms and conditions of employment that shall include provisions to preclude conflicts of interest

Section 32
BPK Employees, Agents and Correspondents

32.1 The Managing Director shall appoint and terminate the appointment of the employees, agents and correspondents of the BPK, within the limits and in accordance with the general terms and conditions of employment adopted by the Governing Board

32.2 No salary, fee, wage, or other remuneration or allowance paid by the BPK shall be computed by reference to the net income, net profits or other revenues of the BPK

Section 33
Conflict of Interest

33.1 The Management and Inspector General shall devote the whole of their professional services to the BPK, and shall not occupy any other office or employment, whether remunerated or not, except as nominee of the BPK and for occasional educational and civic endeavors.

33.2 No member of the Governing Board or staff of the BPK shall accept any gift or credit, or on behalf of any person with whom he or she has family, business, or financial connections, if the acceptance thereof would result, or give the appearance of resulting, in a diminishment of impartial devotion to his or her duties to the BPK

Section 34
Secrecy

34.1 No person who serves or has served as a member of the Governing Board or staff or as an auditor, agent or correspondent of the BPK shall, in a manner unauthorized by the present regulation permit access to, disclose or publicize

nonpublic material information which he has obtained in the performance of his BPK duties or use such information, or allow such information to be used, for personal gain.

34.2 Notwithstanding section 34.1, such persons may disclose nonpublic material information outside the BPK, in accordance with procedures established by the BPK, but only if:

(a) In accordance with the express or implied consent of the person about whom the information relates;

(b) In performance of a duty to the public to make disclosure, including to aid law enforcement and on the order of a court or other person of competent authority;

(c) Given to the auditors of the BPK;

(d) Given to financial institution supervisory authorities and staff of public international financial institutions in performance of their official duties; or

(e) The interest of the BPK itself in legal proceedings requires disclosure.

RELATIONS WITH ENTITIES OF THE UN INTERIM ADMINISTRATION IN KOSOVO

Section 35
Banker, Financial Adviser, Fiscal Agent

35.1 The BPK shall act as banker and as adviser to, and as fiscal agent of, the Central Fiscal Authority and other entities of the UN Interim Administration in Kosovo provided, however, that no transaction carried out by the BPK may serve to extend credit to or for the benefit of any public authority or any other physical or legal entity.

35.2 The BPK shall have the duty to render advice to the UN Interim Administration in Kosovo on significant financial and banking matters that relate to BPK objectives or that otherwise are within its fields of competence

35.3 The BPK shall be consulted by the Central Fiscal Authority on the occasion of the preparation of the budget.

Section 36
Depository and Cashier

The BPK may accept deposits, in any currency, from the UN Interim Administration in Kosovo, the Central Fiscal Authority, and other of its entities As depository, the BPK shall receive and disburse moneys and keep account thereof and provide other financial services related thereto The BPK shall pay to the limits of the deposited amounts against payment orders concerning such accounts The BPK shall pay interest on such deposits at market rates after deduction of reasonable fees.

Section 37
Fiscal Agency Function

The BPK may, on such terms and conditions as it shall agree with the Central Fiscal Authority, act as fiscal agent for the account of the Central Fiscal Authority and such of its agencies and instrumentalities as UN Interim Administration in Kosovo may determine.

Section 38
Information to be Provided to the BPK

The BPK shall receive from the Central Fiscal Authority and other entities of the UN Interim Administration in Kosovo all such financial and economic information and documents as the BPK shall request for the carrying out of its functions.

RELATIONS WITH BANKS AND PAYMENT SYSTEMS FUNCTIONS

Section 39
Payments, Clearing and Settlement Facilities

The BPK may organize, own, operate, supervise and regulate systems for payment orders and for clearance and settlement of interbank payments, in currencies it determines, whether or not legal tender, including payments by check and other payment instruments, and shall establish such procedures and issue such rules and orders relating thereto as it shall deem appropriate.

Section 40
Banks' Accounts on BPK Books

Each bank operating in Kosovo that wishes to participate in a payment, clearing, or settlement system shall open and maintain an account on the books of the BPK, on such terms and conditions as the BPK shall specify, and shall provide promptly as required to the BPK such information concerning its operations and financial condition as the BPK shall prescribe by rule

Section 41
Information Network

The BPK may establish and maintain an information network for the financial system of Kosovo

Section 42
Bank Supervision and Regulation

The BPK shall be exclusively responsible for the licensing of banks in Kosovo and for their supervision and regulation and shall be empowered:

(a) To issue such rules, orders and guidelines and to take such other actions, including revoking bank licenses, and assuming control of a failed bank as it shall deem necessary or advisable in order to execute, its powers and responsibilities under the present regulation and other applicable laws,

(b) To cause an inspection to be made by any of its officers or by any other qualified person appointed to that effect, of any bank and to examine its books, records, documents and accounts for the purpose of ascertaining the condition of its affairs and whether it is in compliance with the present regulation, or any rule or order and other applicable law on bank licensing and supervision,

(c) To require a director, officer or employee of a bank to furnish to the BPK such information as requested for the purpose of enabling the BPK to supervise and regulate banks, and

(d) To cause any bank to take remedial actions or to impose penalties provided in the present regulation or any rule or order or other applicable law on bank licensing and supervision if there has been an infraction by a bank or by one or more of its officers or directors with respect to the violation of a provision of the present regulation or any rule or order or other applicable law or a directive of the BPK pursuant thereto or the violation of any condition or restriction attached to an authorization or approval issued to a bank by the BPK or the violation of any rule or order issued by the BPK.

Section 43
Prudential Rules and Orders

43.1 Each bank shall comply with the rules and orders of the BPK concerning:) its balance sheet accounts, off-balance-sheet commitments, and income and expense statement items with respect to ratios among accounts or items and

prohibitions, restrictions or conditions concerning specific types or forms of credit or investments, or of credit or investments that exceed a certain amount or forms of commitments of a risk-bearing nature or matching as to maturity of assets and liabilities and off-balance-sheet items or open foreign currency, swap, option or similar positions or access to the payments system

43 2 Banks that engage in similar activities and that are in comparable financial condition shall be subject to similar rules and orders

Section 44
Submission of Information to the BPK

44 1 Banks shall furnish to the BPK such information concerning their operations and financial condition as the BPK may require

44 2 The BPK may publish such information and data in whole or in part in aggregate form for classes of banks determined in accordance with the nature of their business

FOREIGN EXCHANGE REGULATION AND OPERATIONS

Section 45
Foreign Exchange Dealers

The BPK shall have the power to

(a) Issue rules and orders governing foreign exchange transactions of individuals, non-financial enterprises, financial institutions,

(b) and agencies and instrumentalities of the UN Interim Administration in Kosovo,

(c) Supervise and regulate foreign exchange dealers, including banks;

(d) Set limits on foreign exchange positions of foreign exchange dealers, including banks, and

(e) Establish the method for determining the value of currencies in relation to other currencies.

Section 46
Reporting of Foreign Exchange Transactions

Licensed foreign exchange dealers, including banks, may be required by the BPK to report periodically to the BPK on their operations, including their open

foreign exchange positions, on a currency-by-currency basis, the BPK shall prescribe the reporting forms and supporting documents to be submitted.

Section 47
Dealing in Foreign Exchange

The BPK may

(a) Buy, sell, or deal in gold coins or bullion or other precious metals,

(b) Buy, sell, or deal in foreign exchange, using for these purposes assets described in section 48, and

(c) Determine the rate at which it will buy, sell or deal in foreign currencies.

Section 48
Foreign Exchange Assets

48.1 The BPK shall hold on its balance sheet and manage assets denominated in foreign exchange consisting of any or all of the following assets:

(a) Gold;

(b) Foreign exchange in the form of notes and coins held within Kosovo or bank balances held abroad in foreign currencies in banks whose short term liabilities are rated in one of the two highest categories by internationally recognized credit rating agencies; and

(c) Debt securities issued or guaranteed by states or central banks of the European Union maturing within 180 days that are denominated and payable in Euros

48.2 The primary objectives in selecting foreign exchange assets shall be safety of principal and liquidity. Subject to these objectives, such assets shall be selected to maximize earnings.

Section 49
Clearing and Payments Agreements

The BPK may, either for its own account or for the account and by order of the Central Fiscal Authority, enter into clearing and payments agreements or any other contracts for the same purpose with public and private central clearing institutions domiciled abroad.

CURRENCY MANAGEMENT

Section 50
Currency Safekeeping

The BPK shall provide, upon payment of reasonable fees, custodial facilities to financial institutions and the public at large for banknotes and coins in currencies that it determines

Section 51
Currency Reserve Inventory

The BPK shall administer a currency reserve inventory in such currencies as it deems appropriate for the settlement of domestic and international transactions to ensure the regular supply of currency to meet the requirements of the economy of Kosovo and may charge reasonable fees for this service

FINANCIAL STATEMENTS, AUDIT, AND REPORTS

Section 52
Financial Year of the BPK

The financial year of the BPK shall begin on the first day of January and end on the last day of December

Section 53
Accounting Practices

53 1 The BPK shall maintain accounts and records in accordance with international accounting standards to reflect its operations and financial condition

53 2 The financial statements of the BPK shall include separate accounts for a General Reserve, provisions for bad and doubtful debts, and depreciation in assets

Section 54
Financial Statements

The BPK shall prepare financial statements for each of its financial years They shall include a balance sheet, a profit and loss statement, and related statements

Section 55
Independent Audit of BPK Accounts

The accounts, records, and financial statements of the BPK shall be audited by internationally recognized independent auditors recommended by the Governing Board and approved by the Special Representative of the Secretary-General. The Special Representative of the Secretary-General may dismiss the BPK independent auditors for good cause.

Section 56
Transmittal and Publication of Statements and Reports

56.1 The BPK shall, within four months after the close of each of its financial year, submit to the Special Representative of the Secretary-General:

(a) Financial statements certified by its external auditors;

(b) A report of its operations and affairs during that year; and

(c) A report on the state of the economy.

56.2 The BPK shall prepare, as soon as possible after the last working day of each calendar quarter, but in any event within 15 working days, summary financial statements as of the end of that quarter.

56.3 Upon their completion, the BPK shall publish the financial statements and reports described in sections 56.1 and 56.2; the BPK may publish such other reports and studies on financial and economic matters as it may deem appropriate.

MISCELLANEOUS PROVISIONS

Section 57
Consultations on Regulatory Proposals

The BPK shall be consulted by the UN Interim Administration in Kosovo on any proposals with respect to matters that relate to BPK's objectives or that otherwise are within its fields of competence, before they are finalized.

Section 58
Preferential Right of the BPK

58.1 The BPK shall have an unconditional preferential right to satisfy each of its claims from any cash balances and other assets that it holds for its own account or for the account of the debtor concerned, whether as collateral to secure its claims or otherwise, at the time that such claim becomes due and payable.

58.2 The BPK may exercise its preferential right only by keeping cash balances and by selling other assets against a reasonable price and paying itself from the proceeds of the sale after deducting therefrom the costs associated with the sale. No court action shall be required for, and no competing claim shall be permitted to delay, the exercise by the BPK of its preferential right in accordance with the provisions of this section, not even claims of ownership or other previously acquired rights, unless there shall be clear and convincing evidence that staff of the BPK knew or should be considered to have known at the time that the assets came into the possession of the BPK that the assets did not belong to the debtor concerned.

Section 59
Prohibited Activities of the BPK

59.1 Except as otherwise specifically authorized by the present regulation or any subsequent regulation or administrative direction, the BPK shall not:

(a) Grant any credit, maintain any deposit, or make any monetary or financial gift;

(b) Engage in commerce, purchase the shares of any corporation or company, including the shares of any financial institution, or otherwise have an ownership interest in any financial, commercial, agricultural, industrial, or other undertaking; or

(c) Acquire by purchase, lease, or otherwise any real rights in or to immovable property, except as it shall consider necessary or expedient for the provision of premises for the conduct of its administration and operations or for the housing of its employees or similar requirements incidental to the performance of its functions under the provisions of the present regulation.

59.2 Notwithstanding any other provision of the present regulation, the BPK may:

(a) Make loans to, or have an ownership share or otherwise participate in, any organization that is engaged in activities that are required for the proper discharge of the BPK's own functions or responsibilities;

(b) Acquire, in the course of satisfaction of debts due to it, any interests or rights referred to in section 59.1(b), provided that all such interests or rights so acquired shall be disposed of at the earliest suitable opportunity; or

(c) Grant credit to any of its employees for such purposes, in such amounts and on such terms and conditions as it may determine.

provided, however, that its capital accounts shall be reduced by the amounts of such credit.

Section 60
Collection of Statistical Information

60.1 The BPK shall collect the statistical information required for the achievement of its objectives and the carrying out of its tasks and may engage in technical cooperation to this end with competent authorities from outside Kosovo.

60.2 The BPK shall define the statistical information so required and the form in which such information is to be provided to the BPK, the persons that are to provide such information to the BPK, and the confidentiality regime that shall apply to statistical information provided to the BPK.

60.3 The BPK shall contribute to the harmonization of rules and practices governing the collection, compilation and distribution of statistics within its fields of competence.

Section 61
Immunity of the BPK from Taxation

The BPK, its assets, property and income, and its operations and transactions, shall be exempt from all income, property, excise and capital gains taxes and duties.

Section 62
BPK Regulatory and Inspection Powers

62.1 The BPK shall be empowered to issue such rules, orders or guidelines to visit such offices of banks, to examine such accounts, books, documents and other records, and to take such other action as the BPK shall deem necessary or advisable to give effect to the provisions of the present regulation.

62.2 All rules, orders and guidelines issued by the BPK that apply to more than one institution shall be published and shall take effect on the date of such publication or on such later date as such directive or guideline shall specify. The BPK shall maintain a public register of such rules, orders and guidelines.

62.3 Rules and orders of the BPK shall be final determinations in administrative proceedings.

Section 63
Standards of Good Administration

63.1 The BPK shall use the powers given it under the present regulation equitably and uniformly and in accordance with sound administrative practices. It shall refrain from using any such power to serve an objective for which the power

was not given or in excess of what shall be required to achieve the objective for which the power was given.

63.2 The decisions of the BPK taken pursuant to the present regulation shall be impartial and shall be motivated only by objective and rational considerations, they shall be executed with fairness and restraint.

Section 64
Trust Accounts

The BPK shall be authorized to open, and maintain on its books, accounts the assets and liabilities of which shall be segregated from the other assets and liabilities of the BPK. The assets of each such account shall be available only to meet liabilities of that account and no other assets of the BPK shall be available to meet liabilities of such account.

Section 65
Employment Practices

The BPK shall apply non-discriminatory personnel policies to ensure that the composition of the staff of the BPK reflects the multi-ethnic character of the communities of Kosovo.

Section 66
Judicial Review

In any court or arbitration proceeding arising out of or in connection with the present Regulation against the BPK or an officer, employee, or agent of the BPK

(a) The sole question before the court or arbitration court in determining whether the defendant acted unlawfully shall be whether the defendant acted in an arbitrary or capricious manner in light of the facts and the law or rules, orders or guidelines at issue,

(b) An administrator, employee, or agent of the BPK shall not be liable for damages or otherwise liable for acts or omissions performed pursuant to and in the course of the duties and responsibilities unless such acts or omissions constitute intentional wrongful conduct; and

(c) The action in question shall continue without restriction during the period of an appeal and any further appeal or other judicial proceedings related to the appeal

Section 67
Interpretation

67.1 The headings in the present regulation are used solely for convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction of any term or provision hereof.

67.2 Terms used in the conjunctive or disjunctive in the present regulation may be read vice versa whenever the change is necessary to effectuate the obvious intention of the provision in question.

67.3 Words in the singular in the present regulation may be construed as plural and vice versa whenever the change is necessary to effectuate the obvious intention of the provision in question.

Section 68
Implementation

The Special Representative of the Secretary-General shall have the power to give administrative directions and orders in relation to the implementation of the present regulation.

Section 69
Effect on Previous Statutory Provisions

The provisions of applicable law relating to matters covered by the present regulation shall apply subject to the provisions of the present regulation.

Section 70
Entry into Force

This Regulation shall enter into force on 15 November 1999.

Section 71
Transitional Provisions

71.1 Notwithstanding sections 11 and 12, until two years from the effective date of the present Regulation or such earlier date when the BPK may determine that banks in Kosovo are equipped to provide such services, the BPK may open demand deposit accounts on its books on behalf of natural persons and enterprises, in currencies it determines, whether or not legal tender, receive and disburse moneys and keep account thereof, and provide payments and collection services related thereto. The BPK shall pay to the limits of the deposited amounts against payment orders concerning such accounts. The BPK shall pay no interest on such deposits. Such accounts shall be subject to such further terms and conditions as the BPK shall specify, including the payment of reasonable fees. Such demand deposit accounts shall not be taken into account for purposes of determining the amount of the capital and the General Reserve

accounts in relation to the amount of the credit balances of all accounts maintained on the books of the BPK by account holders shown on the balance sheet of the BPK for the end of each financial year

71.2 Thirty days from the effective date of the present regulation, no entity may conduct the business of a bank in Kosovo unless it has submitted an application to receive a license to conduct the business of a bank from the BPK in accordance with the present regulation

71.3 On the effective date of the present regulation, the authorities that conduct payments transactions and central banking activities in Kosovo shall cease to engage in activities that, in the judgment of the BPK, interfere with the conduct of its functions

71.4 Compensation received, or the renouncement of such compensation, by members of the Governing Board in relation to their service to the BPK, other than as described in section 19, shall be disclosed in writing to the Special Representative of the Secretary-General

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/21
15 November 1999

REGULATION NO. 1999/21

ON BANK LICENSING, SUPERVISION AND REGULATION

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of establishing rules for the licensing, supervision and regulation of banks by the Banking and Payments Authority of Kosovo (BPK),

Hereby promulgates the following:

GENERAL PROVISIONS

Section 1
Scope of Operation

The present regulation shall apply to banks and financial institutions, their shareholders, administrators, employees, agents and affiliated entities

Section 2
Definitions

Wherever used in the present regulation, the following terms shall have the following meanings:

"Administrator" means any person who is an officer of a bank, or other juridical person, including any member of its Governing Board or Audit Committee and any person who alone or together with one or more others has the authority to enter into commitments for the account of such bank or juridical person;

"affiliate" of a bank or other juridical person means a subsidiary of such bank or juridical person or a company of which such bank or juridical person is a subsidiary or a company that is under common control with such bank or juridical person,

"bank" means a juridical person engaged in the business of accepting deposits in Kosovo as a local entity or as a branch of a foreign bank and of employing such funds either in whole or in part for the purpose of granting extensions of credit or making investments at its own risk;

"branch office" means a place of business which forms a legally dependent arm of a bank, not separately incorporated and which conducts directly all or some of the bank's financial activities;

"capital" means the net worth or funds of a bank that is the difference between its assets and liabilities in accordance with balance sheet accounts that reflect international accounting standards or other sound accounting principles acceptable to the Banking and Payments Authority of Kosovo (the "BPK");

"capital distribution" means a distribution of cash or other property by a bank to its owners made on account of that ownership, but not including any dividend consisting only of shares of the institution or rights to purchase such shares or any amount paid on deposits of a cooperative bank that the BPK determines is not a distribution for purposes of section 27.3;

"credit" means any loan or direct or indirect commitment to disburse money in exchange for a right to repayment of the amount disbursed and outstanding and to the payment of interest or other charges on such amount, any extension of the due date of a debt, any guarantee or letter of credit issued, and any commitment to acquire a right to payment of a sum of money; the term "credit" shall not include bank deposits and the purchase of debt securities in the secondary market;

"credit documentation" means a loan agreement entered into by a bank and its supporting documents, including but not limited to reasonably current financial statements of the borrower or of any guarantor of the borrower's indebtedness; a document of assignment or similar grant of charge in any collateral over which the

lender is given any mortgage, security interest or lien as security for the due payment of the loan and an appraisal of the value of such collateral; and a term sheet setting forth the principal terms of the loan, such as its principal amount, its rate of interest, its schedule of repayments and the borrower's use of the proceeds and purpose of borrowing;

"debt security" means any negotiable instrument of indebtedness and any other instrument equivalent to such instrument whether or not in certificated or in book-entry form;

"deposit" means a sum of money paid to a bank on condition that it is to be repaid in full by the bank, with or without interest or premium either on demand or at an agreed time and not referable to the provision of property or services or the giving of security whether or not evidenced by any entry in a record of the bank,or by any receipt, certificate, note or other document;

"equity interest" means any ownership right or voting right with respect to a juridical person or enterprise;

"financial activity" means any of the activities that are listed in section 25;

"financial institution" means a juridical person that is not a bank that is licensed by the BPK to engage in one or more of the following activities: extending credit, underwriting, dealing in, broking, or distributing securities; acting as investment company manager or investment advisor or providing other financial services such as equipment leasing finance services, micro-finance services or foreign exchange or other financial informational, advisory or transactional services;

"guidelines" means non-obligatory recommendations issued to banks,financial institutions or to a particular bank or financial institution;

"license" means an authorization issued by the BPK granting the right to engage in banking or financial activities specified by that license;

"order" means an obligatory directive of the BPK issued to a bank, financial institution or any particular group thereof in implementation of the present regulation or of a rule;

"person" includes an individual, a company, enterprise, partnership, association and any group of persons acting in concert, whether or not incorporated;

"principal shareholder" means a person that owns directly or indirectly ten percent or more of any class of voting shares of a bank or company;

"regulatory capital" means capital defined by the BPK from time to time for regulatory purposes;

"remedial action" means measures to correct the infractions described in section 37;

"rule" means an obligatory directive in implementation of the present regulation issued by the BPK to all banks and or all financial institutions;

"significant interest" means a direct or indirect holding of an interest in a juridical person or enterprise that represents twenty percent or more of its outstanding voting shares, or that, in the opinion of the BPK, makes it possible to exercise a controlling influence over its management or policies;

"subsidiary" means any juridical person in which another person or group of persons acting in concert holds directly or indirectly the equivalent of fifty percent or more of any class of voting shares or a significant interest that permits such other person or group of persons to exercise a controlling influence over the management or policies of the subsidiary; and

"voting shares" means common shares in the capital of the issuer and any other shares of any designation or description that carry the right to vote on any resolution at a general or special meeting of the issuer.

Section 3
Prohibitions and Exemption

3.1 No person shall engage in the business of a bank or financial institution without an effective license issued by BPK.

3.2 No person shall use the word "bank" or derivatives of the word "bank" in respect of a business, product, or service without a license issued by the BPK, unless such usage is established or recognized by the present regulation, an international agreement or where the context in which the word "bank" is used does not concern financial activities.

3.3 No bank or financial institution shall use words in its title that are misleading concerning its financial condition, legal status or connection with government or international institutions.

3.4 No bank or financial institution organized outside Kosovo shall be permitted to engage directly in any financial activity in Kosovo unless the activity is undertaken through a branch office or subsidiary for which a license has been issued by the BPK.

3.5 No person shall make a misstatement of material fact or a false or misleading representation or do anything to create a false or misleading appearance or engage in any manipulative device or practice in relation to taking deposits.

3.6 The BPK may exempt, in whole or in part from the application of the present regulation, banks whose deposit taking is intended to promote financial savings by

identified classes of persons and whose total deposit liabilities remain less than Deutsche Marks 250,000; provided, however, that any such banks shall not use the word "bank" in their name.

LICENSING OF BANKS

Section 4
Licensing Responsibility of the BPK

The BPK shall have sole responsibility for the issuance of licenses to banks and financial institutions.

Section 5
Minimum Capital

The BPK shall have sole responsibility for establishing the required amounts of minimum paid-in capital to be maintained by banks, which required amounts may never be less than one million Deutsche Marks. The BPK may increase such required amounts from time to time by rule or order.

Section 6
License Application

6.1 Applications for licenses shall be in such form as prescribed by the BPK and shall be accompanied by the following information:

(a) The qualifications and experience of the administrators of an existing or proposed bank, including business and professional history for the past ten years;

(b) The amount of the actual or proposed capital of the bank and, for proposed banks, the amount that may have previously been paid in or subscribed provided that no more than ten percent of bank capital may be contributed in kind;

(c) A business plan setting out, *inter alia*, the organizational structure, the types of financial activities envisaged, projected financial statements for three years and, for existing banks, financial statements and annual reports for the past two years;

(d) The name, residence, business and professional history for the past ten years and financial statements for the past three years, of each person who is or proposes to be a principal shareholder of or has or proposes to have a significant interest in the bank, and the amount and percentage thereof; the proposed ownership interests of affiliated or related persons shall be aggregated to determine the amount of such interest; and

(e) Such additional information as an applicant deems appropriate.

6.2 The BPK may require an applicant to submit additional or supplemental information.

6.3 A license application for a branch office of a foreign bank with its head office in a jurisdiction other than Kosovo (hereinafter referred to as "foreign bank") shall be submitted by the foreign bank and accompanied by such information as the BPK shall require.

Section 7
License Decision

7.1 Within three months from the date of its receipt of a complete application for a bank license, the BPK shall preliminarily approve or deny it, and notify the applicant of its decision in writing; notifications of the denial of a license shall state the grounds on which the license was denied.

7.2 The BPK shall grant a license only if it is satisfied that:

(a) The business plan is based on sound analysis under reasonable assumptions;

(b) The bank will comply with all provisions of the present regulation; and

(c) The qualifications, experience, and integrity of its administrators, principal shareholders and those who propose to have or have significant interests are appropriate for the bank's business plan and financial activities.

7.3 In the case of preliminary approval of an application for a bank license the BPK shall enumerate the conditions for the bank to receive the license to commence its operations. Such conditions shall relate only to:

(a) The payment by shareholders to the bank of its initial capital funds;
(b) The hiring and training of the staff of the bank;
(c) The lease or purchase of operations equipment and the establishment of operations systems, including internal audit and controls;
(d) The lease, purchase or occupancy of bank premises; and
(e) The engagement of an external auditor in accordance with section 33.

7.4 If a bank fails to comply within one year with the conditions to receive the license to commence operations, the preliminary approval of the application shall be revoked.

7.5 If the BPK determines that the conditions in this section have been satisfied, it shall issue a license.

7.6 Licenses concerning a subsidiary or one or more branch offices of a foreign bank shall be granted only if:

(a) The foreign bank is authorized to engage in the business of receiving deposits or deposit-like funds in the jurisdiction or foreign country where its head office is located;
(b) The competent authorities that supervise the foreign bank at its headquarters have given their written consent to the granting of such license; and
(c) The BPK determines that the bank is adequately supervised on a consolidated basis by its supervisory authorities.

Section 8
License

8.1 A license shall be granted for an indefinite period of time and shall not be transferable. Subsequent to initial licensing, banks properly entitled may apply to the BPK to engage in additional activities. The BPK may approve such application or provide reasons in writing for denying it.

8.2 The BPK may charge fees for the processing of a license application, the issuance of a license and for the possession of a license. All such fees shall be non-refundable.

Section 9
Register of Banks

A central register shall be kept by the BPK for inspection by the public that shall record for each licensed bank the name, the head office and branch office addresses, and current copies of its charter or equivalent establishing documentation and by-laws. A list of banks, the licenses of which have been revoked, shall be maintained in the register, but their chartering documentation shall be removed.

Section 10
Revocation of a License

10.1 The license of a bank may be revoked only by decision of the BPK upon a request of the bank; following an infraction, pursuant to section 37 below; or on one or more of the following grounds:

(a) The license has been obtained on the basis of false information submitted by or concerning the applicant;

(b) The bank has not commenced operations within ninety days after the receipt of the license, or such further period as may be determined by the BPK, or has ceased for more than eight months to engage in the business of receiving deposits.

(c) Another bank that holds a significant interest in the bank has had its license revoked;

(d) A merger, amalgamation or sale of substantially all of the assets of the bank has occurred;

(e) The owner or owners of the bank have decided to dissolve or to liquidate the bank, or the bank has ceased to exist as a legally or operationally independent entity,

(f) The activities of the bank during its first three years of operation differ substantially from those presented in the application for a license and, in the opinion of the BPK, such difference is not justified; or

(g) A foreign bank does not have the authority, or has lost the authority, to engage in the business of receiving deposits in the country of its head office.

10.2 A decision by the BPK to revoke or not to revoke a license shall be communicated in writing to each bank or branch office concerned and shall give the grounds for the decision and shall be effective on the date of such communication.

Section 11
Publication of License Revocation

A decision to revoke a license shall be published in one or more newspapers of general circulation wherever the offices of the bank are located.

ORGANIZATION AND ADMINISTRATION OF BANKS

Section 12
Organization and Independence of Banks

12.1 Banks shall be organized as joint stock companies with limited liability under applicable law, with all shares registered in the name of their beneficial owners.

12.2 The provisions of the applicable law on enterprises or company law shall apply to banks to the extent not inconsistent with the present regulation. However, registration with a court is not a condition precedent to commencing banking operations after a license has been received by a bank.

12.3 Each bank shall enjoy legal, operational, financial and administrative autonomy from any other person, including the BPK and any agency, instrumentality or political subdivision of the government, unless the law, the present regulation or rules or orders issued pursuant thereto specifically provide otherwise. This autonomy shall be

respected and no person shall seek improperly to influence any administrator of a bank in the discharge of his or her duties or to interfere in the activities of any bank, except in the execution of a specific directive or duty under law.

12.4 Each bank shall have legal status including the right to contract, to own and dispose of movable and immovable property, and may be a party to legal proceedings.

Section 13
Capital Requirements

The minimum amounts that banks must maintain as regulatory capital, and the minimum absolute amount of capital, shall be prescribed from time to time by rule or order.

Section 14
Restrictions on Ownership and Holdings

14.1 The transfer of an equity interest in a bank shall require the prior written authorization of the BPK if, as a result of such transfer, any one person or number of persons acting in concert would, directly or indirectly, become a significant shareholder in such bank or would own more than twenty percent of any class of voting shares of the bank. Determinations by the BPK shall be based upon the criteria described in section 7 and upon such further factors as the BPK may reasonably consider.

14.2 No bank shall, alone or in concert with one or more other persons, without prior written authorization of the BPK, directly or indirectly hold an equity interest in a juridical person or undertaking that is engaged in other than financial activities that either represents a significant interest or exceeds as to its net current value the equivalent of fifteen percent of the bank's regulatory capital or permit the aggregate net current value of all such equity interests to exceed the equivalent of one hundred percent of the bank's regulatory capital.

14.3 Notwithstanding section 14 2 no authorization shall be required for:

(a) Equity interests that have been acquired by a bank in foreclosure on or in lieu of repayment of a loan granted by the bank, in which case the bank shall dispose of such equity interests within one year from the date they are acquired or within such longer period as the BPK may permit; or

(b) Equity interests held by a bank as an agent or trustee.

Section 15
Mergers of Banks

Merger of, amalgamation of or sale of substantially all the assets of a bank shall require the prior written authorization of the BPK. Determinations shall be based upon whether the proposed transaction would result in the substantial lessening of competition in any market served by the bank and on the criteria described in Section 7.

Section 16
Charter and By-laws

16.1 Each bank shall have a charter or equivalent establishing documentation that shall specify its corporate name and address; its purposes; the jurisdiction and authority of its Governing Board; and the amount of its capital, the classes, numbers and nominal values of its shares, and the voting rights attaching to its shares. No amendment of the charter or equivalent establishing documentation of a bank shall take effect without the prior written approval of the BPK.

16.2 Each bank shall be governed by by-laws, approved by its Governing Board, which in compliance with its charter shall establish:

(a) The structure of the organization and administration of the bank, including its operational and administrative units, their sub-units and functions, supervisory positions, and reporting relationships;

(b) The duties of each departmental director and the units under his or her supervision;

(c) The functions of: the Audit Committee, the Credit Risk Management Committee, the Asset and Liability Management Committee and other permanent committees of the Governing Board; and

(d) The limits of the authority of the administrators and other employees of the bank to bind the bank in contract

16.3 Each bank shall maintain on file with the BPK a duly certified copy of its charter or equivalent establishing documentation, its by-laws, and a list of the officials of the bank who are currently authorized to obligate the bank, together with their specimen signatures and a description of the limits of their authority.

Section 17
Governance of Banks

17.1 Each bank shall be administered by a Governing Board consisting of an uneven number of not less than five members, of which two shall be non-executive

directors, and shall have an Audit Committee, a Credit Risk Management Committee, and an Asset and Liability Management Committee.

17.2 The Governing Board shall be elected by the bank's shareholders and shall be responsible for establishing its policies and for supervision of their implementation.

17.3 The Governing Board shall be appointed by the general meeting of its shareholders for terms of not more than two years; and may be reappointed for subsequent similar periods. The general meeting of shareholders may establish remuneration for Board members; provided, however, that remuneration of the Governing Board and senior management of a bank shall be subject to approval of the BPK for the first three years of a bank's operations, and thereafter, if necessary, in the judgement of the BPK.

17.4 The Governing Board shall operate in accordance with the bank's by-laws.

17.5 The Governing Board and its members may not delegate their responsibilities to others.

Section 18
Administrators

All persons elected or appointed as administrators of a bank must be fit and proper and of good repute and must meet the criteria established by the BPK regarding qualifications, experience and integrity. Prior to their assuming office, members of the Governing Board must be approved by the BPK.

Section 19
Administrators and Principal Shareholders; Disqualification and Removal

19.1 A person shall not be eligible to become a member of a bank's Governing Board or shall by decision of the general or special meeting of shareholders of the bank be relieved of his or her membership on the Governing Board or, if it fails to act within 30 days of notice of the disqualification, by the BPK, in the event that such person:

(a) Has by law been deprived of the right to sit on the governing board of a juridical person;

(b) Serves, or has served at any time during the immediately preceding twelve-months with the BPK;

(c) Has been convicted of a crime;

(d) Has, in the judgement of BPK, been a party to a transaction that violates the present regulation or any rule or order; or

(e) Has been subject to an insolvency proceeding as debtor.

19.2 Members of the Governing Board, except those who have filed a written objection against the granting of such credits, shall be jointly and severally liable for losses sustained by a bank from credit extended in violation of sections 23, 27 or 30. Such liabilities may not be paid directly or indirectly by the bank or any of its affiliates which they serve or by the proceeds of any professional liability insurance or other indemnity policy of the bank.

19.3 A natural person who is a principal shareholder of a bank or a principal shareholder of an affiliate of a bank shall promptly after disqualification divest his or her interest in voting shares of such bank or affiliate to a level below that of a principal shareholder. If he or she fails to do so within 60 days of becoming disqualified, such shares shall lose the right to vote and shall receive a capital distribution. After such period, if the divestiture is not accomplished within 60 days, the BPK may order that all the shares in the bank held directly or indirectly by such principal shareholder be transferred to a trustee for sale at auction and the net proceeds, less expenses of sale, will be remitted to the disqualified shareholder.

Section 20
Committees

20.1 Each bank shall establish an Audit Committee that shall consist of at least two non-executive members of the Governing Board. The Audit Committee shall:

(a) Establish appropriate accounting, operational and administrative internal controls, supervise compliance with policies and procedures, commission audits at the expense of the bank of the bank's and records;

(b) Monitor compliance with the present regulation and applicable rules or orders and report to the Governing Board thereon,

(c) Engage experts at the expense of the bank to assist in the fulfillment of the Committee's responsibilities; and

(d) Deliver opinions on any matters submitted to it by the Governing Board or that it wishes to address

20.2 The Audit Committee shall meet once per quarter and when convened by the Governing Board or by two of its members. Decisions shall be taken by a majority of the members present and voting. Minutes of meetings shall be recorded in such manner as prescribed by the BPK.

20.3 Each bank shall establish a Credit Risk Management Committee and an Asset and Liability Management Committee each to be chosen from among respectively qualified senior officers by the Governing Board.

20.4 The Credit Risk Management Committee shall:

(a) Meet weekly or whenever business so requires under procedures pursuant to the by-laws;

(b) Establish and monitor implementation of policies and procedures for credit underwriting, loan administration, and loan collection;

(c) Monitor compliance with the present regulation and other rules and orders applicable to credit and report to the Governing Board thereon; and

(d) Deliver opinions on any matters submitted to it by the Governing Board or that the Committee wishes to address.

20.5 The Asset and Liability Management Committee shall

(a) Meet once per month or when convened by the Governing Board or by two of its members pursuant to the by-laws;

(b) Take decisions by a majority of the members present and voting; and

(c) Establish and monitor the implementation of policies and procedures for funding needs projections and proper matching of maturities and rates of assets and liabilities.

Section 21
Secrecy

Present and past administrators, employees, and agents of a bank or financial institution shall keep secret, and not use for personal gain or gain by other than the bank that they serve or have served, or permit to be examined by others, any non-public information that they obtained in the course of their services to the bank. Such information may be disclosed only to the BPK, including its inspectors and the auditors appointed by it, to external auditors of the bank, to judicial authorities as the law shall provide, to foreign bank supervisory authorities, and when the protection of the bank's own interest in legal proceedings requires disclosure.

Section 22
Prevention of Money Laundering

22.1 No bank or financial institution shall conceal, convert, or transfer cash or other property, if it knew or ought to have known that such cash or other property is derived from criminal activity, or aid or abet any person in concealing or disguising the illicit origin of any cash or property.

22.2 Banks and financial institutions shall inform the BPK of any evidence which suggests that property may be derived from criminal activity and provide any additional information to the appropriate authorities, in accordance with applicable law.

Section 23
Conflicts of Interest and Fiduciary Obligations

23.1 An administrator of a bank or of a financial institution who is a party to a material contract or a proposed material contract with the bank or is an administrator of, or has a material interest in or a material relationship to any person who is a party to a material contract or a proposed material contract with the bank, shall disclose in writing to the bank the nature and extent of the material interest or relation. Such disclosure shall be made by the administrator when the contract or proposed contract comes or ought reasonably to come to the attention of the administrator.

23.2 A notice in writing to the Governing Board of the bank by an administrator annually disclosing the names, addresses and particulars of such administrator's material commercial, financial, agricultural, industrial or other business or family interests that such person has at the time shall be a sufficient declaration of conflict of interest in any contract for purposes of section 23.1.

23.3 An administrator who has a material interest or a material relationship within the scope of this section shall leave any meeting at which the contract or proposed contract is discussed, and shall refrain from voting on any matter related thereto that comes before the Governing Board of the bank.

23.4 An interest shall be material if it is significant with reference to the financial, business or family (any person who is related by marriage or to the second degree of consanguinity) interests of the person having the interest, and a person has a material interest in any company if the person owns, directly or indirectly, a significant interest in the company, or is an administrator of the company and has a significant interest in any partnership if the person is a partner.

23.5 Where an administrator fails to disclose a material conflict of interest in accordance with this section a court of competent jurisdiction may, on the application of the bank, a bank shareholder, or the BPK, set aside the contract on such terms as it thinks fit. In addition, the BPK may, by written order, suspend the administrator from office for any period not exceeding one year, or remove the administrator from office permanently.

23.6 Banks shall introduce suitable arrangements and procedures so that they and their administrators and employees are not placed in a situation where their duty to one customer conflicts with their duty to another, or where their own interest conflicts with their duty to a customer.

23.7 Administrators and employees of banks have a fiduciary duty of independence, loyalty and diligence to the bank that they serve and to the bank's depositors to place the bank's interests before their own interests.

23.8 No bank shall extend credit to its affiliate on preferential terms as to credit quality, interest rate, fee, maturity or valuation of collateral nor shall any bank purchase an asset from an affiliate in the form of a loan which is not performing.

23.9 No bank shall extend unsecured credit to any one of its affiliates in amounts exceeding 10% of its total minimum, regulatory capital except with the prior permission of the BPK; and

23.10 No bank shall have outstanding in the aggregate at any one time extensions of credit to all affiliates exceeding 25% of its total minimum, regulatory capital except with the prior written permission of the BPK.

OPERATIONAL REQUIREMENTS

Section 24
General Principles

24.1 Banks shall conduct their administration and operations in accordance with sound policies and procedures, the requirements of the present regulation and of applicable rules and orders.

24.2 Banks shall maintain such risk-based capital and shall hold such liquid assets as shall be prescribed by rule.

24.3 Banks shall ensure diversity of risk assets as prescribed by rule.

Section 25
Financial Activities

25.1. Banks shall be authorized in their licenses to engage in the financial activities described in this section.

25.2 Banks with the minimum amounts of required capital in accordance with section 5, as adjusted from time to time, may engage in the following financial activities:

(a) Receiving deposits (in the form of demand deposits, time deposits, or other forms of deposit) bearing interest or not in one currency;

(b) Buying and selling for a bank's own account debt securities issued or

guaranteed by governments or central banks of the European Union that are denominated and payable in the currency of the bank's deposits and that have a term to maturity not exceeding one year;

(c) Providing payment and collection services;

(d) Issuing and administering means of payment (including payment cards, travelers' checks and bankers' drafts);

(e) Buying and selling foreign exchange for cash for the account of a customer;

(f) Providing for safekeeping of securities and other valuables; and

(g) Such other financial activities as the BPK shall determine by rule.

25.3 Banks that have Deutsche Marks three million in capital or such further amount as may be determined by rule or order from time to time, may engage in the financial activities described in section 25.2 and in addition the following financial activities:

(a) Receiving deposits whether bearing interest or not in more than one currency;

(b) Extending credit, including consumer and mortgage credit; factoring with or without recourse; and financing of commercial transactions;

(c) Borrowing funds and buying and selling for a bank's own account or for the account of customers (excluding underwriting) of money market instruments (including notes, bills of exchange and certificates of deposit); debt securities; futures and options relating to debt securities or interest rates; or interest rate instruments;

(d) Money broking;

(e) Financial leasing;

(f) Providing credit information services;

(g) Providing services as a financial agent or consultant (not including services described in sections 25.4(a) and (b)); and

(h) Dealing in one or more currencies other than the currency in which the bank's balance sheet is denominated, including contracts for the future purchase or sale of foreign currencies.

25.4 Banks that have Deutsche Marks five million in capital or such further amount as may be determined by rule or order from time to time, may engage in the financial activities described in sections 25.2 and 25.3, and in addition the following financial

activities:

(a) Providing trust services, including, the investment and administration of funds received in trust and administration of securities;

(b) Providing services as an investment portfolio manager or investment adviser;

(c) Underwriting and distribution of debt and equity securities and dealing in equity securities; and

(d) Such other financial activities related to securities transactions, as the BPK shall determine by rule.

25.5 No bank or financial institution shall engage in financial activities that exceed those specifically authorized by its license.

Section 26
Prohibited Transactions and Practices

26.1 Banks and financial institutions shall refrain from entering into transactions or engaging in practices of any kind that would provide them, alone or together with others, a position of dominance in the money, capital or foreign exchange markets, and from engaging in manipulative devices or predatory pricing practices that could result in an unfair advantage for themselves or for third parties.

26.2 No bank shall require any person to contract to receive any financial service or any goods or other service from an affiliate as a condition of being permitted to contract with the bank to receive any other financial service from the bank or an affiliate.

26.3 No bank shall provide credit enhancement for, or extend credit to, facilitate the purchase of securities underwritten, placed or distributed by its affiliate.

Section 27
Prudential Requirements

27.1 Banks shall observe the following maximum limits as prescribed by the BPK:

(a) The maximum ratios and exposures to be maintained by a bank concerning its assets, risk-weighted assets, and off-balance sheet items and various categories of capital and reserves;

(b) The maximum aggregate amount of credits, expressed as a percentage of its regulatory capital, that a bank shall be permitted to have committed or outstanding to or for the benefit of any single person or group of interrelated persons; and

(c) The maximum aggregate amount of credits, expressed as a percentage of the aggregate amount of all its credits, that a bank shall be permitted to have committed or outstanding to or for the benefit of the ten borrowers (including groups of interrelated persons) with respect to whom the bank's exposure on account of credit transactions is the greatest.

27.2 Banks shall observe the following requirements as prescribed by the BPK:

(a) Requirements concerning the minimum aggregate amount of liquid assets or specific categories of such assets in relation to the value or change in value of assets (including guarantees and collateral received) or specific categories thereof, or in relation to the amount or change in amount of liabilities or specific categories of liabilities, provided, however, that banks shall be permitted to meet their liquidity requirements by maintaining with the BPK money deposits of an equivalent value;

(b) Requirements concerning the maximum aggregate amount of real estate and fixed assets held, or specific categories thereof;

(c) Requirements concerning the classification and evaluation of assets and provisions to be made on the basis of such classifications and evaluations against substandard and non-performing loans, and the time when earnings on non-performing loans may no longer be accounted for as income except as received in cash; and

(d) Prohibitions, restrictions or conditions concerning the types or forms of credits and investments made; matching as to maturity and interest rate in respect of assets and liabilities (contingent or otherwise); and unhedged positions in foreign currencies, precious metals or precious stones, exceeding limits prescribed by the BPK.

27.3 No bank shall make a capital distribution or pay a dividend if, in the opinion of the BPK, after making such distribution, the bank would have less than the minimum regulatory capital required by the present regulation or by rule or order.

27.4 No bank may engage directly in industry, commerce, or activities other than financial activities.

27.5 No bank shall extend credit secured by its own equity securities.

27.6 No bank shall purchase its own equity securities without prior authorization from the BPK.

Section 28
Corporate Records and Records of Transactions

28.1 Every bank shall prepare and maintain at its head office written records containing:

(a) Its charter or equivalent establishing documentation, its by-laws and all amendments thereto;

(b) A register of its beneficial shareholders, including the number of shares registered in the name of each;

(c) Minutes of meetings and resolutions of its Governing Board;

(d) Minutes of meetings and resolutions of shareholders meetings and Committee meetings;

(e) Accounting records exhibiting clearly and accurately the state of its business affairs, explaining its transactions and financial position so as to enable the BPK to determine whether the institution has complied with all the provisions of the present regulation and with applicable rules and orders;

(f) Records showing, for each customer of the bank, on a daily basis, particulars of its transactions with or for the account of that customer, and all balances owing to or by that customer; and

(g) Such other records as are required by BPK.

28.2 Every bank shall create and maintain at the head office of the bank in Kosovo, proper credit documentation and any other information concerning its business relations with its customers and other persons that the BPK may prescribe by rule.

Section 29
Notification of Terms and Conditions

Each bank shall regularly notify its customers of the current policies and procedures regarding the business of the bank, and of the terms and conditions, and methods of calculation associated with deposits made and credits received by them, including the compound annual rates of interest and such other information as may be prescribed by the BPK.

Section 30
Transactions with Related Persons

30.1 Banks and financial institutions shall not enter into a transaction with or for the benefit of a person who is related to them, if such transaction would be entered into on less favorable terms and conditions, or not at all, with or for the benefit of persons who are not so related. For the purposes of this section, persons who are related shall include without limitation any administrator of the bank; any principal shareholder or holder of significant interest in the bank; any person who is related to such administrator, principal shareholders or holders by marriage, consanguinity to the second degree, or business interest; any person that has a significant interest in a juridical person in which the bank has a significant interest. Notwithstanding the foregoing, no bank shall extend credit to or for the benefit of a person so related to the bank if as a result thereof the aggregate amount outstanding on all credits extended by the bank to persons so related to the bank would exceed an amount in relation to the bank's regulatory capital as prescribed by the BPK.

30.2 Credit extended by any bank to any related bank or financial institution shall be subject to such additional conditions or restrictions as shall be prescribed by rule. For the purposes of this paragraph, a related bank or financial institution shall include, without limitation, any private or governmental person or institution, or any number of such persons or institutions acting in concert, that has a direct or indirect significant interest in the bank extending the credit and any juridical person or undertaking in which the bank holds a significant interest.

Section 31
Credit to Employees of Banks

A bank shall not provide financial assistance to any of its employees, or for their benefit, in excess of limits established by the BPK.

ACCOUNTS AND STATEMENTS, AUDIT, REPORTING AND INSPECTION

Section 32
Accounts and Financial Statements

32.1 Banks shall maintain accounts and records and prepare annual financial statements adequate to reflect their operations and financial condition in accordance with international accounting standards and shall also reflect the operations and financial condition of its subsidiaries and branch offices, both on an individual and on a consolidated basis.

32.2 Accounts and financial statements shall be in such form and detail and in accordance with international accounting standards or such other accounting standards as shall be prescribed by the BPK.

Section 33
Audit

33.1 Each bank shall appoint, upon the recommendation of its Audit Committee an independent and qualified external auditor approved by the BPK who shall.

(a) Assist in maintaining proper accounts and records;

(b) Prepare an annual report together with an audit opinion as to whether the financial statements present a full and fair view of the financial condition of the bank in accordance with the provisions of the present regulation;

(c) Review the adequacy of internal audit and control practices and procedures and make recommendations for remediation; and

(d) Inform the BPK about any fraudulent act by an employee of the bank or any of its subsidiaries or any irregularity or deficiency in its administration or operations that may reasonably be expected to result in a material loss for the bank or such subsidiary.

33.2 For banks whose assets do not exceed the amount established by the BPK the functions described in section 33.1 may be performed by the bank's internal auditor provided that such auditor shall have had no less than ten years of professional experience in auditing.

33.3 A bank whose assets or activities so warrant in the judgment of the BPK shall employ, with the advice and consent of its Audit Committee, a fit and proper internal auditor.

33.4 The internal auditor shall report to the Audit Committee which shall set his or her compensation.

33.5 The internal auditor shall be given meaningful access to management and members of management to discuss matters relevant to their functions and shall have the right, upon request, to obtain from them any information or documentation which he or she shall require

33.6 The internal auditor shall have no authority to bind or represent any bank in contracts or other transactions.

33.7 The internal auditor shall operate independently of management and shall be possessed of a special fiduciary duty of care and loyalty to the bank

33.8 The internal auditor shall:

(a) Establish systems of internal controls, satisfactory to the Audit Committee to monitor and critique policies and procedures with respect to accounting, administration, operations and the safeguarding of assets,

(b) Establish and implement internal programs, satisfactory to the Audit Committee, to surprise test for non-compliance and irregularities in selected departments based on the internal auditor's risk assessments of such departments;

(c) Report non-compliance and irregularities to the Audit Committee at such intervals and pursuant to such procedures as shall be set by the Audit Committee and where exigent circumstances so dictate, to the BPK;

(d) Assist, cooperate with and monitor the external auditor in the performance of his or her duties; and

(e) Perform such other duties as may be provided in the bank's by-laws

Section 34
Publication of Balance Sheet, Auditor's Opinion, Annual Report

34.1 Each bank shall within thirty days of each calendar quarter, publish in a national newspaper a fair and true summary of its quarterly balance sheet as at the end of the previous calendar quarter. Each bank shall also, within four months of the end of its financial year, publish in a national newspaper a fair and true summary of its balance sheet and its auditor's opinion for the preceding financial year;

34.2 Each bank shall also publish its annual report and provide copies to the public on request without charge.

Section 35
Branches of Foreign Banks

Branch offices of foreign banks shall publish balance sheets and income statements on a consolidated basis and shall submit them to BPK on a quarterly basis and at such other times as the BPK shall require. All such financial reporting shall be in accordance with international accounting standards.

Section 36
Reports and Examination

36.1 Each bank shall prepare and submit to the BPK reports concerning its administration and operations, liquidity, solvency, and profitability, and those of its subsidiaries on an individual and a consolidated basis. The reports shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed by the BPK.

36.2 Each bank and each of its subsidiaries shall be subject to examinations by examiners of the BPK or by auditors appointed by the BPK. Such examiners may include officials of the authority of another country that is charged with the monetary or prudential supervision of financial activities in that country if it concerns the examination of a bank that is a branch or subsidiary of a foreign bank that has its head office in that country or has a significant interest in a foreign bank that is located in that country.

36.3 In their examinations of banks and their subsidiaries, the BPK and auditors appointed by it may:

(a) Examine the accounts, books, documents and other records of the bank or subsidiary; and

(b) Require administrators, employees and agents of the bank or subsidiary to provide all such information on any matter relating to its administration and operations as they shall reasonably request.

36.4 Each bank and each of its subsidiaries shall admit and cooperate fully with the examiners of the BPK and the auditors appointed by the BPK. No one shall attempt to harass, hinder, delay, impede, intimidate, or exert undue influence on an inspector of the BPK or the auditors appointed by it.

36.5 Each affiliate of a bank and providers of professional or operations services to banks shall provide information to the BPK as the BPK may reasonably request concerning the bank's operations and relations with such persons.

INFRACTIONS, PENALTIES AND REMEDIAL MEASURES

Section 37
Infractions, Penalties and Remedial Measures

37.1 The BPK shall determine the remedial measures and penalties provided for infractions described in this section.

37.2 The BPK may take the following actions, or impose the following penalties, with respect to a bank or financial institution if it determines that the bank, financial institution or any of its administrators, principal shareholders and or those holding significant interests in it has violated a provision of the present regulation or of any rule or order of the BPK, has violated any condition or restriction attached to an authorization issued by the BPK or has engaged in unsafe or unsound practices in the judgement of the BPK:

(a) Issue written warnings;

(b) Conclude a written agreement with the Governing Board providing for a program of remedial action;

(c) Issue written orders to cease and desist from such infractions and to undertake remedial action;

(c) Impose fines on the bank, financial institution or on its administrators, principal shareholders and, those holding significant interests in it in amounts of from DM 500 to DM 5,000 for each day that the infraction continues provided that fines shall be of similar amount for entities with comparable total assets for the same type of infraction;

(d) Suspend temporarily or dismiss management or a member or members thereof, the Board of Governors or a member or members thereof; and

(e) Revoke the license of the bank or financial institution and appoint a receiver

37.3 For banks whose regulatory capital is determined by the BPK to be less than two-thirds of the required minimum regulatory capital, in addition to the measures described in section 37.2, the BPK may take one or more of the following actions:

(a) Require that the average total assets of the bank during any calendar quarter not exceed its average total assets during the preceding calendar quarter,

(b) Require that the bank not acquire any equity interest in any juridical person or undertaking, establish or acquire any additional branch office, or engage in any new line of business;

(c) Require that the bank not grant any extension of credit to an affiliate unless such credit is collateralised by marketable securities issued or guaranteed by a government of the European Union, held in custody by an escrow agent whose market value exceeds at all times 125% of the amount of the credit, and

(d) Require that the interest rates the bank pays on deposits not exceed the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the bank is located, as determined by the BPK.

37.4 For banks whose regulatory capital is determined by the BPK to be less than one-half of the required minimum regulatory capital, in addition to the measures that may be taken that are described in sections 37.2 and 37.3, the BPK may take one or more of the following actions or impose the following penalties:

(a) Require the bank or any of its subsidiaries to alter, reduce, or terminate any activity that the BPK determines has caused material losses to the bank;

(b) Require the bank to dismiss one or more administrators who had held office for more than 180 days immediately before the bank became undercapitalized as determined by the BPK;

(c) Require that the bank divest itself of or liquidate any subsidiary if the BPK determines that the subsidiary is in danger of becoming insolvent or has caused material losses to the bank; and

(d) Require that no administrator receive any bonus or receive compensation at a rate exceeding that person's average rate of compensation (excluding bonuses, stock options and profit sharing) during the twelve calendar months preceding the month in which, in the determination of the BPK, the bank became undercapitalized.

37.5 For banks whose regulatory capital is determined by the BPK to be less than one-quarter of the required minimum regulatory capital, in addition to the measures that may be taken that are described in sections 37.2, 37.3 and 37.4, the BPK shall appoint a receiver for the bank.

37.6 The measures and penalties provided in this section shall not preclude application of other civil penalties or criminal penalties as provided under applicable law.

37.7 Any fines or revenue imposed in accordance with this section shall be paid to Kosovo Consolidated Budget.

37.8 Penalties described in section 37.2 may be applied to any person who violates any of the provisions of section 3 and the BPK shall also, notwithstanding any other provision of law, be empowered to seek the liquidation of the business of such person under the provisions of applicable law.

Section 38
Suspension and Removal of Persons Related to a Bank

38.1 If the BPK determines that any administrator, employee or holder of a significant interest in a bank has willfully or repeatedly committed any violation of the present regulation or any rule or order that has resulted in a material loss to the bank or financial gain to such person or has engaged in unsafe or unsound practices and has persisted in such violations or practices following a written warning from the BPK the BPK may issue an order containing any or all of the following provisions:

(a) Requiring the dismissal of the person from his position in the bank;

(b) Prohibiting such person from serving in or engaging in the banking or financial business for a stated period or for life;

(c) Prohibiting the person from direct or indirect exercise of voting rights attached to shares of the bank;

(d) Requiring the person to dispose of all or any part of his or her direct or indirect ownership interest in the bank or cease to hold a significant interest in it; and

(e) Requiring the person to reimburse the bank for losses caused by such violations.

38.2 If any such person is charged with any criminal offense, the BPK may issue an order temporarily suspending such person from his or her position in the bank, and, if applicable, suspending the exercise of voting rights of shares in the bank by such person, pending the determination of the criminal case. A dismissal of the criminal case or decision of not guilty on the merits shall not preclude the BPK from taking any enforcement action with respect to a person authorized by the present regulation.

38.3 No person may hold any position in, or participate in any manner in the conduct

of the activity of, any affiliate of a bank that is engaged in financial services, without the prior written approval of the BPK, if such person is subject to an order of the BPK suspending or removing him from a position in a bank, prohibiting the exercise of his voting rights in shares of a bank, or requiring him to dispose of his ownership interest in a bank.

38.4 In the event that any person does not sell or dispose of voting shares of a bank pursuant to an order issued under this section within the prescribed period of time, the BPK may order that all the shares in the bank held by such person be transferred to a trustee for sale at auction and the net proceeds, less expenses of sale, will be remitted to that person.

RECEIVERSHIP

Section 39
Bases for Initiation of Receivership Due to Insolvency

39.1 If the BPK determines that a bank is insolvent or has revoked its license or that it may reasonably be expected to become insolvent within the next ninety days the BPK shall revoke the license of that bank and shall forthwith take possession and control of that bank through a receiver appointed by the BPK. This proceeding shall be known as Receivership.

39.2 For the purposes of the present regulation:

(a) A bank shall be deemed to be insolvent if it is not paying its obligations in full as they fall due or the value of its liabilities exceeds the value of its assets.

(b) The value of a bank's assets, liabilities and regulatory capital shall be determined in accordance with valuation standards and procedures prescribed by the BPK; and

(c) In determining the value of a bank's assets and liabilities for a future date the bank's reasonably anticipated future income and expenses until that date shall be taken into account.

39.3 A receiver may be a person from the private sector or an official of the BPK who meets the qualifications prescribed by the BPK. The BPK may, for good cause dismiss a receiver. The terms of the receiver's compensation may include incentives for meeting the objectives described in Section 41.1 and may include penalties for failure to meet such objectives.

39.4 The compensation of the receiver and experts that he or she engages, reimbursement of their expenses and expenses of the BPK in execution of the present regulation with respect to a bank shall be paid from the assets of the bank.

Payments to the receiver shall be made on a current basis if in the judgment of the receiver there are sufficient liquid assets, provided, however, that the receiver and agents of the receiver shall not receive in any calendar month a larger *pro rata* share in payment of their claims for fees and expenses than depositors described in section 43.1(b) receive in payment of their claims. Any moneys owing to the receiver at the end of the term of receivership shall be paid from the proceeds from the sales of the bank's assets with the priority described in section 43.

Section 40
Notice and Registration of Receivership

40.1 The receiver shall within two days of his or her appointment post in each office of the bank a notice announcing such action pursuant to the present Regulation specifying the effective date and time of possession by the receiver and specifying that

(a) Authorizations of persons to engage the financial responsibility of the bank have been cancelled,

(b) Persons who previously had authorization to give instructions on behalf of the bank with respect to payment or transfer of the bank's assets or assets managed by the bank are no longer so authorized, and

(c) The bank's license has been revoked.

40.2 The receiver shall publish a notice specifying the actions taken in one or more newspapers of general circulation in the communities in which the bank maintains offices and arrange for the publication of such notice each week for the next four weeks and shall inform as necessary the competent authorities and shall transmit copies of such actions to the BPK within two days of such action.

Section 41
Powers and Duties of Receiver and Effects of Receivership

41.1 A receiver shall have all the powers of the administrators and shareholders of the bank concerned and, notwithstanding that the bank's license has been revoked may, subject to section 41.2, operate the bank in its own name, and shall take any action in selling the bank or its assets that, in the receiver's opinion, is likely to result in satisfying more of the bank's liabilities to depositors and other creditors within one year from the date of appointment than would any alternative action; the BPK may extend the receivership for a further period of up to six months if, in its opinion, such extension will result in a material increase in the satisfaction of the bank's liabilities. Subject to the primary objective of maximum satisfaction of the bank's liabilities to creditors, the receiver shall expedite the sale of the bank or its assets and payments to creditors.

41.2 A receiver may continue any operations other than the taking of new deposits and extending credit to other than existing customers in relation to outstanding assets; and may borrow money on a secured or unsecured basis. The receiver may stop or limit the payment of any obligation, employ or dismiss any officer, employee or advisor, execute any instrument in the name of the bank and initiate or defend and conduct in the bank's name any action or legal proceeding.

41.3 The receiver shall have unrestricted access to and control over the offices, books of account and other records, and other assets of the bank and its subsidiaries. At the request of the receiver, a law enforcement officer or officers shall assist the receiver to gain access to bank premises or control over bank records.

41.4 Any person who willfully interferes with a receiver's access to or control over the offices, books of account and other records, and other assets of a bank for which he or she has been appointed shall be imprisoned for a period of not less than one year nor more than five years or fined in an amount of not less than DM 1000 per day nor more than DM 5000 per day for each day that the infraction continues, or both.

41.5 The BPK shall approve or deny a merger of the bank with another bank, or sale of substantially all the bank's assets to any one bank, based upon the criteria in section 15.

41.6 The receiver shall have the same rights and privileges and be subject to the same duties, penalties, conditions, and limitations as apply to administrators or other employees of a bank licensed under the present regulation.

41.7. The powers of the administrators and shareholders of the bank shall be suspended during an receivership; provided, however, that administrators may be instructed by the receiver to exercise specified functions for the bank; and further provided, that such persons shall be subject to dismissal by the receiver from their positions at the bank and shall thereupon cease to receive compensation from the bank.

41.8 The receiver shall secure the assets of the bank to seek to prevent their dissipation by theft or other improper action, by taking actions including, but not limited to, the following:

(a) Changing the locks and limiting access to the new keys on external entrances to the bank's offices and on doors to internal offices which contain financial assets or information or equipment which could enable a person to gain unlawful access to financial assets;

(b) Changing or establishing access codes to the bank's computers and granting access only to a limited number of trustworthy employees;

(c) Issuing new photo identification passes for entrance of authorized

employees to the bank's premises and controlling the access of others to the bank's premises;

(d) Canceling authorizations of persons to engage the financial responsibility of the bank and issuing new authorizations, as appropriate, and notifying third parties;

(e) Informing correspondent banks, registrars and transfer agents of securities, and external asset managers of the bank's assets that persons who previously had authorization to give instructions on behalf of the bank with respect to dealing in the bank's assets or assets held in trust by the bank are no longer so authorized and that only the receiver, and persons authorized by the receiver have such authority; and

(f) Suspending the payment of capital distributions in general and payment of any kind to administrators and principal shareholders, provided, however, that base compensation may be paid to administrators for services rendered in their capacity as administrators of the bank.

41.9 The receiver shall establish a new balance sheet for the bank, based on his or her determination of liquidation values of the bank's assets with a corresponding reduction in the value of the bank's liabilities in the reverse order of priority in payment of distributions in a liquidation of a bank's assets. Liabilities shall be deemed due and payable and interest shall cease to accrue as of the date of the appointment of the receiver. Unmatured liabilities shall be discounted to present value at the rate of interest determined by the BPK

41.10 Within one month of taking possession of a bank, the receiver shall make an inventory of the assets and property of the bank and transmit a copy thereof to the BPK, which shall make a copy available for examination by the public.

41 11 After fifteen days from the date of appointment, the receiver may make available for withdrawal by depositors or payment to other creditors such amounts as in his or her opinion may appropriately be used for that purpose; provided, however, that all depositors or other creditors who are similarly situated shall be treated in the same manner; and further provided, that before a general distribution of payments to creditors of the bank or the assumption of the bank's liabilities by another bank creditors other than those described in section 43.1(b) shall receive no more than fifty percent of the amount of their allowed claims as determined by the receiver.

41 12 When a receiver has taken possession of a bank:

(a) Any term, statutory, contractual or otherwise, on the expiration of which a claim or right of the bank would expire or be extinguished, shall be extended by six months from the date of such expiration or extinction;

(b) Any attachment or security interest (except one existing six months prior to

the effective date of the receivership) shall be vacated, and no attachment or security interest, except one created by the receiver in the application this section shall attach to any of the assets or property of the bank so long as such receivership continues;

(c) Shareholders' rights shall be extinguished except for the right to receive proceeds, if any under Section 43.3 and the right to receive any net payment received from the sale of the bank or substantially all its assets if the receiver determines that the bank had positive net worth at the time of sale; and

(d) The receiver may issue new shares in the bank, sell the assets of the bank or arrange for the assumption of liabilities of the bank on terms he considers fair.

41.13 The procedures for determinations of the validity and priority of claims and for liquidation of bank assets and return of bank customers' property shall be prescribed by the BPK; provided, however, that the sale of bank assets shall be accomplished in a transparent and commercially reasonable manner.

41.14 Any assets of the bank that have not been sold at the end of the term of the receivership may be abandoned by the receiver or given to a charitable institution that promotes public health or education. Creditors of the bank shall have no claim against any such assets.

41.15 The receiver shall report each month to the BPK on the progress of the receivership in such form as may be prescribed by the BPK.

Section 42
Avoidance of Pre-Receivership Transfers

42.1 The receiver may bring an action in court to set aside a transaction based on a forged or fraudulent document that the bank has executed to the detriment of creditors within five years of the effective date of the receivership.

42.2 The receiver may bring an action in court to set aside the following transactions affecting the assets of the bank or to recover from third parties the transfers by the bank:

(a) Gratuitous transfers to, or to persons related to, administrators and principal shareholders of or holders of significant interests in the bank made within five years prior to the effective date of the receivership,

(b) Gratuitous transfers to third parties made within three years prior to the effective date of the receivership;

(c) Transactions in which the consideration given by the bank considerably

exceeded the received consideration, made within three years prior to the effective date of the receivership;

(d) Any act done with the intention of all parties involved to withhold assets from bank creditors, or otherwise impair their rights, within five years prior to the effective date of the receivership; and

(e) Transfers of property of the bank to, or for the benefit of a creditor on account of a debt incurred within six months prior to the effective date of the receivership which has the effect of increasing the amount that the creditor would receive in a liquidation of the bank; provided, however, that payment of deposits in an amount not exceeding DM 1000 per depositor shall not be subject to this provision.

42.3 Transactions with persons related to the bank conducted within one year prior to the effective date of the receivership, if detrimental to the interest of depositors and other creditors, may be set aside and recovered from such persons.

42.4 An action to set aside a transfer may be brought by the receiver within one year following the effective date of the receivership.

42.5 Notwithstanding the provisions of sections 42.1 to 42.4, the receiver may not set aside a payment or transfer by the bank if it was made in the ordinary course of the bank's business, or if it was part of a contemporaneous exchange for reasonably equivalent value, or to the extent that following the transfer the recipient extended new unsecured credit to the bank which had not been satisfied by the bank as of the effective date of the receivership.

42.6 The receiver may recover property or the value of property transferred by the bank from a transferee of an initial transferee only if the second transferee did not give fair value for the property and knew that the initial transfer could be set aside under the present regulation.

42.7 The receiver may order that notice of the filing of an action to set aside a transfer be recorded in the public records for real estate ownership and any other rights in property and a person taking title to or acquiring any security interest or other interest in such property after the filing of such a notice takes his title or interest subject to the rights of the bank to recover the property.

42.8 A lessor of bank premises or a utility company or other provider of utility services including, without limitation, a company that supplies electricity, natural gas, water, or telephone service, may not alter, refuse, or discontinue such service to a bank because of its receivership or because the debtor has failed to pay for services prior to its receivership; provided, however, that upon request of a lessor of bank premises or a utility company, the bank shall place a security deposit in a commercial bank as a condition to the lessor's or utility company's duty to continue to provide services during the receivership, and any such deposit shall not be required in an

amount greater than the cost of services provided to the bank during the month immediately prior to the effective date of the receivership.

Section 43
Priorities in Payment of Claims

43.1 In any liquidation of a bank's assets, allowed secured claims shall be paid to the extent of the realization of the security or the security shall be delivered to the secured creditor. Other allowed claims shall be paid in relation to all other debts, in the order described below:

(a) Necessary and reasonable expenses incurred by the receiver and the BPK, including professional fees, in application of the provisions of the receivership sections hereof;

(b) Deposits of each depositor up to an amount not exceeding ten times the prevailing average monthly wage;

(c) The amount not paid on deposits; and

(d) Other claims of creditors against the bank.

43.2. If the amount available for payment for any class of claims is insufficient to provide payment in full, such claims shall be reduced in equal proportions.

43.3 After payment of all claims filed, any remaining allowable claims that were not filed within the time specified by rule for the filing shall be paid. Any proceeds remaining after all claims of depositors and other creditors have been paid shall be distributed among the shareholders of the bank in accordance with their rights.

Section 44
Final Reporting to the BPK

Once the proceeds for the sale of assets of a bank have been distributed, the receiver shall provide a report to the BPK that includes a statement of income and expense and sources and uses of funds during the period of receivership. Upon approval by the BPK of the report, the BPK and the receiver shall be relieved of any further responsibility in connection with the receivership of a bank.

Section 45
Miscellaneous Receivership Provisions

45.1 Professional employees appointed to represent or assist a receiver or the BPK in connection with a receivership shall not be paid amounts greater than are payable to employees or agents of banks for similar services, except that the BPK may authorize payment at higher rates, if the BPK determines that paying such higher

rates is necessary in order to recruit and retain necessary personnel.

45.2. The BPK shall have authority to indemnify a receiver and his agents for their actions on such terms as the BPK deems proper.

45.3. All claims arising out of or in connection with the insolvency of a bank or a bank in receivership against a bank receiver or the BPK in relation to a bank licensed under the present regulation shall be settled in accordance with its provisions. No appeals from the acts of a receiver or the BPK may be taken except that the bank's shareholders holding not less than ten percent of any class of shares with the right to vote may appeal against the appointment of a receiver for a bank.

45.4 Any court or administrative proceeding arising out of or in connection with a bank insolvency or a bank in receivership against a bank administrator, receiver or the BPK in relation to a bank licensed under the present regulation shall be brought before the appellate court or appropriate administrative body.

45.5 If the owners of a bank wish to voluntarily liquidate the bank under the Company Law, the Law on Enterprises, or any insolvency or bankruptcy code or other appropriate statute, they shall submit a request for approval of the voluntary liquidation to the BPK accompanied by such information as the BPK may prescribe. The BPK shall make due inquiry into the affairs of the bank and may approve the voluntary liquidation under other applicable law or determine that the present regulation applies and appoint a receiver pursuant to Section 39.

MISCELLANEOUS PROVISIONS

Section 46
Regulatory and Supervisory Powers of the BPK

The BPK shall be empowered to issue such rules, orders or guidelines, to visit such offices of banks and financial institutions at such reasonable times as it deems appropriate, to examine such accounts, books, documents and other records, and to take such other action as it shall deem necessary or advisable to give effect to the intent of the present regulation or rules or orders issued thereunder.

Section 47
Rules and Orders of the BPK; Fees

47.1 The BPK shall publish its rules and orders which shall take effect on the date of such publication or on such later date as such order or rule shall specify.

47.2 The BPK shall charge fees to banks and financial institutions for its supervisory and regulatory services in order to defray its direct and indirect costs

incurred in providing such services. Fees shall be assessed against banks in relation to the amount of their assets or based on any extraordinary expenses incurred by the BPK or its agents in relation to its supervisory activities with respect to a particular bank. Banks shall pay fees within ten days of presentation of a statement by the BPK.

Section 48
Judicial Review

In any proceeding in any court, arbitration court or administrative body in any jurisdiction brought against the BPK for any action taken in its capacity as supervisor or receiver, or against any of its officials, employees or agents.

(a) The sole question before the court or body in determining whether a defendant acted unlawfully, wrongfully or negligently shall be whether a defendant exceeded clear authority or acted in an arbitrary or capricious manner in light of all the facts and circumstances, the provisions and intent of the present regulation, rules, orders and applicable law;

(b) No actual or former official, employee, or agent of the BPK shall be liable for damages or otherwise liable for acts or omissions performed in good faith in the course of his or her duties; and

(c) The action taken which is the subject of any such proceeding shall continue without restriction during the proceeding and of any appeals or judicial review unless enjoined by a court of competent jurisdiction.

Section 49
Interpretation

49.1 The headings of the sections in the present regulation are to be used solely for convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction of any term or provision hereof.

49.2 Terms used in the conjunctive or disjunctive in the present regulation may be read vice versa whenever the change is necessary to effectuate the obvious intention of the provision in question.

49 3 Words in the singular in the present regulation may be construed as plural and vice versa whenever the change is necessary to effectuate the obvious intention of the provision in question.

Section 50
Implementation

The Special Representative of the Secretary-General may promulgate administrative directions to implement the present regulation.

Section 51
Applicable Law

The provisions of applicable law shall apply subject to the provisions of the present regulation.

Section 52
Entry into Force

This Regulation shall enter into force on 15 November 1999.

Section 53
Transitional Provisions

53.1 Entities conducting the business of a bank in Kosovo on the effective date of the present regulation that wish to operate as a bank in Kosovo must submit an application in accordance with section 7 within 30 days of that date. Entities that have not submitted an application by such date or whose application has been denied pursuant to the provisions of section 7 shall cease within 30 days to conduct the business of a bank or wind up their affairs. The BPK may appoint a receiver to liquidate the businesses of entities compelled to wind-up their affairs in accordance with the provisions of this section.

53.2 Within the period specified by the BPK (which shall not be later than 31 December 2000) by order to a bank that its organization, administration, financial condition or operations do not conform in one or more material respects with the requirements of the present regulation or with any rule or order, such bank shall promptly undertake to conform to said requirements within as short a time as possible.

53.3 Licensed banks which have registered with the central register as required under section 9 and are operating as banks shall be deemed for all purposes to be organized as joint stock companies with limited liability or as cooperative societies under the applicable law of Kosovo until such time as an effective law on enterprises or company law or on cooperatives, as the case may be, is in effect, at which time formal organization under said law shall be immediately undertaken and effected subject to approval by the BPK

53.4 If no effective law on enterprises or company law is enacted within five (5) years from the effective date of the present regulation, the BPK shall have the power to review the status of all licenses granted and to take such remedial actions as it shall deem appropriate.

Bernard Kouchner
Special Representative of the Secretary-General

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/22
15 November 1999

REGULATION NO. 1999/22

ON THE REGISTRATION AND OPERATION OF NON-GOVERNMENTAL ORGANIZATIONS IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of regulating non-governmental organizations in Kosovo,

Hereby promulgates the following:

Section 1
Scope of the Regulation

1.1 The present regulation shall govern the founding, registration, activities, and dissolution of legal persons organized as Non-Governmental Organizations in Kosovo.

1.2 The term Non-Governmental Organization ("NGO") as used in the present regulation shall encompass domestic associations and foundations as defined in section 2 of the present regulation, and foreign and international organizations as defined in section 3. The present regulation does not seek to limit the right of individuals to freedom of association.

1.3 An NGO shall not distribute any net earnings or profits as such to any person. The assets, earnings, and profits of an NGO shall be used to support the not-for-profit purposes of the organization and shall not be used to provide benefits, directly or indirectly, to any founder, director, officer, member, employee, or donor of the NGO. This section does not preclude the payment of reasonable compensation to such persons for work performed for the organization.

Section 2
Establishment of Associations and Foundations in Kosovo

2.1 A domestic NGO is an association or foundation established in Kosovo to accomplish any lawful purpose, whether for public benefit or mutual interest.

2.2 An association is a membership organization. An association may be established by at least three domestic or foreign legal or natural persons ("Persons"), at least one of whom has a residence or seat in Kosovo.

2.3 A foundation is an organization without members established to manage properties and assets. A foundation may be established by one or more Persons, at least one of whom has a residence or seat in Kosovo.

2.4 An association or foundation shall be established by a founding instrument that shall contain the following information:

(a) the official name of the organization and any official acronym;
(b) its organizational form (association or foundation);
(c) the organization's address;
(d) the organization's purpose;
(e) the names and addresses of the founders; and
(f) the name, address and other contact information of the individual or individuals in Kosovo authorized to represent the organization and to receive official notices and inquiries.

2.5 A foundation may also be established by a will, bequest, or legacy if it includes the information set forth in section 2.4.

2.6 An association or foundation shall have statutes containing the following information:

(a) the name of the organization;
(b) the purposes of the organization and a general description of proposed activities;
(c) if the NGO is an association, the procedures for selecting and removing members, the conditions for membership, and, if the organization is to have a Board, the procedures for electing and removing members of the Board and the allocation of powers and responsibilities between the general meeting of members and the Board;
(d) if the NGO is a foundation, the procedures for electing and removing members of the Board;
(e) the powers of the highest governing body to delegate authority and responsibilities to other internal organs of the NGO, and the procedures for such delegations;
(f) the authority and responsibilities of officers, if any;
(g) quorum and voting rules for the highest governing body and any other internal organ of the NGO;
(h) rules and procedures for amending the statutes, and for merging, splitting up, or dissolving the organization and provisions regarding the distribution of any assets remaining after such dissolution.

Section 3
Foreign and International NGOs

3.1 A foreign or international NGO is a legal person established outside of Kosovo under legislation that substantially meets the requirements mentioned in section 3.2 of the present regulation.

3.2 Foreign and international NGOs are subject to the provisions of sections 1, 3, 4.1, 4.3, 4.4, 4.5, 4.6, 5, 6.2, 8 and 9 to 14 of the present regulation.

Section 4
Registration

4.1 An NGO shall apply for registration with UNMIK in order to operate as a legal entity in Kosovo.

4.2 A foundation or association registers by filing with UNMIK an application form, founding instrument, and its statutes.

4.3 A foreign or international NGO registers by filing:

(a) an application form;
(b) proof that it is a legal person in another country;
(c) the organization's address in Kosovo; and
(d) a written statement from an authorized representative of the NGO's headquarters stating:
    (1) the purposes of the NGO;
    (2) a general description of the activities that the NGO is planning to carry out in Kosovo; and
    (3) the name, address and other contact information of the individual or individuals in Kosovo authorized to represent the NGO and to receive official notices and inquiries.

4.4 An NGO shall inform UNMIK within thirty (30) business days of any material change with respect to documents submitted for registration. Amendments to registration shall be subject to procedures, standards, and time limits equivalent to those applicable to initial registration. Amendments accepted by UNMIK shall be recorded, registered, and publicly available under section 4.5 of the present regulation.

4.5 UNMIK shall maintain a register of NGOs. The register shall state the name, address, organizational form, and purposes of each NGO, as well as the name, address and other contact information of its authorized representative(s). The register shall also indicate if an NGO has public benefit status pursuant to section 10 of the present regulation. The register shall be available to the public in a central location during regular business hours to be established by the registering authority.

4.6 UNMIK shall issue to an NGO a registration certificate or a written decision denying registration within sixty (60) business days of receiving an application to register, unless UNMIK requests in writing further information or clarification. If registration is denied, UNMIK shall include an explanation of the grounds upon which registration was denied.

Section 5
Grounds for Denying Registration

5.1 UNMIK may deny an application if (a) the registration documents do not comply with the requirements of the present regulation; (b) if the statutes of the NGO would violate the provisions of the United Nations Security Council Resolution 1244 (1999), or of any UNMIK regulation; or (c) the organization seeking registration has the same name or one so similar to a previously registered or already established NGO that confusion is likely to result.

5.2 UNMIK may suspend or revoke a registration for violation of any provision of the present regulation. Except in the case of serious violations posing a threat of harm to the public, UNMIK shall give an NGO written notice of the violation and an opportunity to respond prior to suspending or revoking registration.

Section 6
Legal Status

6.1 NGOs shall have the status of a legal person in Kosovo upon registration pursuant to the present regulation.

6.2 Upon registration, foreign and international NGOs are authorized to operate as a legal person in Kosovo.

Section 7
Internal Governance of Associations and Foundations

7.1 The highest governing body of an association shall be the assembly of members. The assembly of members shall consist of all members of the association.

7.2 The highest governing body of a foundation shall be a Board of Directors. The Board of Directors shall consist of at least three members.

7.3 The highest governing body shall have ultimate responsibility for the policies and financial affairs of the organization and shall meet at least once a year, at which time it shall review and approve the assets, liabilities, income, expenditures, and programs of the organization for the past year as well as anticipated assets, liabilities, income, expenditures and programs for the upcoming year.

7.4 Any member of a governing body shall recuse himself from the consideration or decision of any matter in which he has a personal or economic interest. Any transaction between the organization and its members, officers, members of the Board or employees must be concluded at fair market value or on terms more favorable to the organization.

Section 8
Political Activities

NGOs may not engage in fundraising or campaigning to support political parties or candidates for political office, nor may they propose, register or in any way endorse candidates for public office

Section 9
Property and Resources

9.1 The income of an NGO may include donations of cash, securities, and in-kind contributions; bequests; membership fees; gifts; grants; real or personal property; and income generated from any lawful activities undertaken by the NGO with its property and resources.

9.2 An NGO may engage in economic activities for the purpose of supporting its not-for-profit activities subject to the requirements of section 1.3.

9.3 An NGO may own and manage property and assets for the accomplishment of its not-for-profit purposes.

Section 10
Tax and Fiscal Benefits

10.1 Subject to the limitations described in section 10.2 below, an NGO registered under the present regulation may apply for public benefit status if the NGO is organized and operated to undertake one or more of the following as its principal activities: humanitarian assistance and relief, charity, education, health, culture, environmental conservation or protection, economic reconstruction and development, the promotion of human rights, the promotion of democratic practices and civil society, the promotion of gender equality, or any other activity that serves the public benefit.

10.2 Education and health shall constitute public benefit activities only if significant benefits are provided free of charge or at less than fair market value to disadvantaged individuals or groups. Economic development shall constitute a public benefit activity only if it is undertaken primarily for the benefit of disadvantaged individuals or groups.

10.3 An NGO may apply for public benefit status upon initial registration by the NGO or thereafter. UNMIK shall grant public benefit status if the registration documents of the NGO demonstrate that the purposes and activities of the NGO satisfy the requirements of section 10.1. To retain public benefit status, the NGO shall prepare activity and financial reports pursuant to administrative directions issued by the Special Representative of the Secretary-General.

10.4 UNMIK may revoke the public benefit status of an NGO for violation of the present provision. The procedures for the granting and revoking of public benefit status shall follow the corresponding provisions in sections 4.6 and 5.2 of the present regulation.

10.5 Pursuant to conditions and procedures contained in administrative directions issued by the Special Representative of the Secretary-General, NGOs with public benefit status

shall be entitled to tax and fiscal benefits, including exemption from customs duties, sales tax and other taxes except those which are essentially charges for public utility services.

Section 11
Dissolution

11.1 An NGO may be voluntarily dissolved upon the decision of its highest governing body.

11.2 In the event of the dissolution of an NGO that received tax or fiscal benefits, donations from the public, or government grants, any assets remaining after discharge of the NGO's liabilities shall be distributed to another NGO with the same or similar purposes. This NGO shall be identified in the NGO's statutes or through a decision of the NGO's highest governing body; otherwise, UNMIK will make this determination.

11.3 In all other cases, any assets remaining after the discharge of liabilities shall be distributed in accordance with the statutes or a decision by the highest governing body and in all cases in compliance with section 1.3 of the present regulation.

11.4 UNMIK shall remove dissolved NGOs from the register of active NGOs.

Section 12
Implementation

The Special Representative of the Secretary-General may give administrative directions and orders in connection with the implementation of the present regulation.

Section 13
Applicable law

The present regulation shall supersede any provision in the applicable law relating to the registration and operation of non-governmental organizations in Kosovo which is inconsistent with it.

Section 14
Entry into force

The present regulation shall enter into force on 15 November 1999.

B. Kouchner

Bernard Kouchner
Special Representative of the Secretary-General

/...

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo

UNMIK

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo

UNMIK/REG/1999/23
15 November 1999

REGULATION NO. 1999/23

ON THE ESTABLISHMENT OF THE HOUSING AND PROPERTY DIRECTORATE AND THE HOUSING AND PROPERTY CLAIMS COMMISSION

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999 on the Authority of the Interim Administration in Kosovo,

For the purpose of achieving efficient and effective resolution of claims concerning residential property,

Hereby promulgates the following:

Section 1
Housing and Property Directorate

1.1 The Housing and Property Directorate (the "Directorate") shall provide overall direction on property rights in Kosovo until the Special Representative of the Secretary-General determines that local governmental institutions are able to carry out the functions entrusted to the Directorate. In particular, the Directorate shall:

(a) Conduct an inventory of abandoned private, state and socially owned housing;
(b) Supervise the utilization or rental of such abandoned property on a temporary basis for humanitarian purposes; rental monies of abandoned private and socially owned property shall be recorded in a separate account in trust for the rightful owner, subject to deduction of relevant expenses;
(c) Provide guidance to UNMIK, including CIVPOL and UNHCR, as well as KFOR on specific issues related to property rights; and
(d) Conduct research leading to recommended policies and legislation concerning property rights.

1.2 As an exception to the jurisdiction of the local courts, the Directorate shall receive and register the following categories of claims concerning residential property including associated property:

(a) Claims by natural persons whose ownership, possession or occupancy rights to residential real property have been revoked subsequent to 23 March 1989 on the basis of legislation which is discriminatory in its application or intent;

(b) Claims by natural persons who entered into informal transactions of residential real property on the basis of the free will of the parties subsequent to 23 March 1989;

(c) Claims by natural persons who were the owners, possessors or occupancy right holders of residential real property prior to 24 March 1999 and who do not now enjoy possession of the property, and where the property has not voluntarily been transferred.

The Directorate shall refer these claims to the Housing and Property Claims Commission for resolution or, if appropriate, seek to mediate such disputes and, if not successful, refer them to the Housing and Property Claims Commission for resolution.

Section 2
Housing and Property Claims Commission

2.1 The Housing and Property Claims Commission (the "Commission") is an independent organ of the Directorate which shall settle private non-commercial disputes concerning residential property referred to it by the Directorate until the Special Representative of the Secretary-General determines that local courts are able to carry out the functions entrusted to the Commission.

2.2 The Commission shall initially be composed of one Panel of two international and one local members, all of whom shall be experts in the field of housing and property law and competent to hold judicial office. The Special Representative of the Secretary-General shall appoint the members of the Panel and shall designate one member as the chairperson. The Special Representative of the Secretary-General may establish additional Panels of the Commission in consultation with the Commission.

2.3 Before taking office, the members of the Commission shall make in writing the following solemn declaration:

"I solemnly declare that I will perform my duties and exercise my power as a member of the Housing and Property Claims Commission honourably, faithfully, impartially and conscientiously."

The declarations shall be put in the archives of the Commission.

2.4 The Commission shall be entitled to free access to any and all records in Kosovo relevant to the settlement of a dispute submitted to it. "

2.5 As an exception to the jurisdiction of local courts, the Commission shall have exclusive jurisdiction to settle the categories of claims listed in section 1.2 of the present regulation. Nevertheless, the Commission may refer specific separate parts of such claims to the local courts or administrative organs, if the adjudication of those separate parts does not raise the issues listed in section 1.2. Pending investigation or resolution of a claim, the Commission may issue provisional measures of protection.

2.6 The Special Representative of the Secretary-General shall establish by regulation the Rules of Procedure and Evidence of the Commission, upon the recommendation of the Commission. Such rules shall guarantee fair and impartial proceedings in accordance with internationally recognized human rights standards. In particular, such rules shall include provisions on reconsideration of decisions of the Commission.

2.7 Final decisions of the Commission are binding and enforceable, and are not subject to review by any other judicial or administrative authority in Kosovo.

Section 3
Executive Director and Staff

The Special Representative of the Secretary-General shall appoint an Executive Director of the Directorate after consultation with the Executive Director of the United Nations Centre for Human Settlements (UNCHS) (Habitat). The Executive Director shall appoint the staff of the Directorate, which shall comprise local experts, and shall allocate staff to the Commission who shall be under the exclusive control of the Commission.

Section 4
Applicable Law

The provisions of the applicable laws relating to property rights shall apply subject to the provisions of the present regulation.

Section 5
Entry into Force

The present regulation shall enter into force on 15 November 1999.

Bernard Kouchner
Special Representative of the Secretary-General